5–27–97
Vol. 62 No. 101
Pages 28607–28794

Federal Register

Tuesday
May 27, 1997

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WASHINGTON, DC

WHEN: June 17, 1997 at 9:00 am
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Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 62, No. 101
Tuesday, May 27, 1997

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB26

General Administrative Regulations; Collection and Storage of Social Security Account Numbers and Employer Identification Numbers

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The regulations contained in this subpart are issued pursuant to the Federal Crop Insurance Act, as amended (FCIA) (7 U.S.C. 1501 *et seq.*). The intended effect of this revision is to comply with the statutory mandate that requires the collection of Social Security Number (SSN) and Employer Identification Number (EIN) information of participating agents, loss adjusters, and policyholders and to establish the procedures to be used by the Federal Crop Insurance Corporation (FCIC) and insurance providers in the collection, use, and storage of documents containing SSN or EIN information.

EFFECTIVE DATE: June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Bill Smith, Supervisory Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Mo 64131, telephone (816) 926–7743.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be not significant for the purpose of Executive Order 12866, and, therefore, has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions on information collection requirements previously approved by OMB under OMB control number 0563–0047, through November 30, 1999. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandate (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions in the rule will not impact small entities to a greater extent than larger entities. The action does not increase the paperwork burden on the insured producer or the reinsured company. The program is strictly voluntary. This regulation requires only that the participant provide the SSN or EIN. This regulation does not require or impose any requirement on the delivery agent or company that is not already required by the Privacy Act of 1974 (5 U.S.C. 552a). Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Program to eliminate unnecessary regulations or duplicative regulations and improve those that remain in force.

Background

On Wednesday, January 15, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 2052–2055 to amend the General Administrative Regulations (7 CFR part 400, subpart Q). Following publication of that proposed rule, the public was afforded 60 days to submit written comments and opinions. No public comments were received.

In addition to the proposed changes, FCIC is making the following changes to this subpart:

1. Section 400.405 (b) and (c) are being amended to clarify that it is the agent or loss adjuster's SSN which must be provided. The meaning of ''premium

subsidy payable'' in paragraph (c) is also being clarified.

List of Subjects in 7 CFR part 400

Collection and storage of social security account numbers and employer identification numbers, Crop insurance, General administrative regulations.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR part 400, subpart Q as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart Q—Collection and Storage of Social Security Account Numbers and Employer Identification Numbers

1. The authority citation for 7 CFR part 400, subpart Q, is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 400.401 is amended by revising paragraphs (a), (b)(1), (2), (3) and (4) to read as follows:

§ 400.401 Basis and purpose and applicability.

(a) The regulations contained in this subpart are issued pursuant to the Act to prescribe procedures for the collection, use, and confidentiality of Social Security Numbers (SSN) and Employer Identification Numbers (EIN) and related records.

(b) * * *

(1) All holders of crop insurance policies issued by FCIC under the Act and sold and serviced by local FSA offices.

(2) All holders of crop insurance policies sold by insurance providers and all insurance providers, their contractors and subcontractors, including past and present officers and employees of such companies, their contractors and subcontractors.

(3) Any agent, general agent, or company, or any past or present officer, employee, contractor or subcontractor of such agent, general agent, or company under contract to FCIC or an insurance provider for loss adjustment or any other purpose related to the crop insurance programs insured or reinsured by FCIC; and

(4) All past and present officers, employees, elected officials, contractors, and subcontractors of FCIC and FSA.

3. Section 400.402, is revised to read as follows:

§ 400.402 Definitions.

Act—The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

Applicant—A person who has submitted an application for crop insurance coverage under the Act.

Authorized person—Any current or past officer, employee, elected official, general agent, contractor, or loss adjuster of FCIC, the insurance provider, or any other government agency whose duties require access to administer the Act.

Disposition of records—The act of removing and disposing of records containing a participant's SSN or EIN by FCIC, or the insurance provider.

FCIC—The Federal Crop Insurance Corporation of the United States Department of Agriculture or any successor agency.

FSA—The Farm Service Agency of the United States Department of Agriculture, or a successor agency.

Insurance provider—A private insurance company approved by FCIC, or a local FSA office providing crop insurance coverage to producers participating in any program administered under the Act.

Past officers and employees—Any officer or employee of FCIC or the insurance provider who leaves the employ of FCIC or the insurance provider subsequent to the effective date of this rule.

Person—An individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a state, political subdivision, or an agency of a state.

Policyholder—An applicant whose application for insurance under the crop insurance program has been accepted by FCIC or the insurance provider.

Retrieval of records—Retrieval of a person's records by that person's SSN or EIN, or name.

Safeguards—Methods of security to be employed by FCIC or the insurance provider to protect a participant's SSN or EIN from unlawful disclosure and access.

Storage—The secured storing of records kept by FCIC or the insurance provider on computer disks or drives, computer printouts, magnetic tape, index cards, microfiche, microfilm, etc.

Substantial beneficial interest—Any person having an interest of at least 10 percent in the applicant or policyholder.

System of records—Records established and maintained by FCIC or the insurance provider containing SSN or EIN data, name, address, city and State, applicable policy numbers, and other information related to multiple peril crop insurance policies as required by FCIC, from which information is retrieved by a personal identifier including, but not limited to the SSN, EIN, or name.

4. Section 400.403 is revised to read as follows:

§ 400.403 Required system of records.

Insurance providers are required to implement a system of records for obtaining, using, and storing documents containing SSN or EIN data before they accept or receive any applications for insurance. This data should include: name; address; city and state; SSN or EIN; and policy numbers which have been used by FCIC or the insurance provider.

5. Section 400.404 is revised to read as follows:

§ 400.404 Policyholder responsibilities.

(a) The policyholder or applicant for crop insurance must provide a correct SSN or EIN to FCIC or the insurance provider to be eligible for insurance. The SSN or EIN will be used by FCIC and the insurance provider in:

(1) Determining the correct parties to the agreement or contract;

(2) Collecting premiums or other amounts due FCIC or the insurance provider;

(3) Determining the amount of indemnities;

(4) Establishing actuarial data on an individual policyholder basis; and

(5) Determining eligibility for crop insurance program participation or other United States Department of Agriculture benefits.

(b) If the policyholder or applicant for crop insurance does not provide the correct SSN or EIN on the application and other forms where such SSN or EIN is required, FCIC or the reinsured company shall reject the application.

(c) The policyholder or applicant is required to provide to FCIC or the insurance provider, the name and SSN or EIN of any individual or other entity:

(1) holding or acquiring a substantial beneficial interest in such policyholder or applicant; or

(2) having any interest in the policyholder or applicant and receiving separate benefits under another United States Department of Agriculture program as a direct result of such interest.

(d) If a policyholder or applicant is using an EIN for a policy in an individual person's name, the SSN of the policyholder or applicant must also be provided.

§§ 400.405 through 400.412 [Redesignated as §§ 400.406 through §§ 400.413].

6. Sections 400.405 through 400.412 are redesignated as sections 400.406 through 400.413, respectively.

Sections 400.405 through 400.412 are redesignated as follows:

Old section	New section
400.405	400.406
400.406	400.407
400.407	400.408
400.408	400.409
400.409	400.410
400.410	400.411
400.411	400.412
400.412	400.413

7. Section 400.405 is added to read as follows:

§ 400.405 Agent and loss adjuster responsibilities.

(a) The agent or loss adjuster shall provide his or her correct SSN to FCIC or the insurance provider, whichever is applicable, to be eligible to participate in the crop insurance program. The SSN will be used by FCIC and the insurance provider in establishing a database for the purposes of:

(1) Identifying agents and loss adjusters on an individual basis;

(2) Evaluating agents and loss adjusters to determine level of performance;

(3) Determining eligibility for program participation; and

(4) Collection of any amount which may be owed by the agent and loss adjuster to the United States.

(b) If the loss adjuster contracting with FCIC to participate in the crop insurance program does not provide his or her correct SSN on forms or contracts where such SSN is required, the loss adjuster's contract will be cancelled effective on the date of refusal and the loss adjuster will be subject to suspension and debarment in accordance with the suspension and debarment regulations of the United States Department of Agriculture.

(c) If the agent or loss adjuster contracting with an insurance provider, who is also a private insurance company, to participate in the crop insurance program does not provide his or her correct SSN on forms or contracts where such SSN is required, the premium subsidy payable for administrative and operating expenses under the Standard Reinsurance Agreement, or any other reinsurance agreement, will not be paid on those policies lacking the correct SSN.

8. Redesignated § 400.406 is revised to read as follows:

§ 400.406 Insurance provider responsibilities.

The insurance provider is required to collect and record the SSN or EIN on each application or on any other form required by FCIC.

9. Redesignated § 400.407 is revised to read as follows:

§ 400.407 Restricted access.

The Manager, other officer, or employee of FCIC or an authorized person may have access to the SSNs and EINs obtained pursuant to this subpart, only for the purpose of establishing and maintaining a system of records necessary for the effective administration of the Act.

10. Redesignated § 400.408 is revised to read as follows:

§ 400.408 Safeguards and storage.

Records must be maintained in secured storage with proper safeguards sufficient to enforce the restricted access provisions of this subpart.

11. Redesignated § 400.411 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 400.411 Obtaining personal records.

Policyholders, agents, and loss adjusters in the crop insurance program will be able to review and correct their records as provided by the Privacy Act. Records may be requested by:

(a) Mailing a signed written request to the headquarters office of FCIC; the FCIC Regional Service Office, or the insurance provider; or

* * * * *

12. Redesignated § 400.412 is revised to read as follows:

§ 400.412 Record retention.

(a) FCIC or the insurance provider will retain all records of policyholders for a period of not less than 3 years from the date of final action on a policy for the crop year, unless further maintenance of specific records is requested by FCIC. Final actions on insurance policies include conclusion of insurance events, such as the latest of termination of the policy, completion of loss adjustment, or satisfaction of claim.

(b) The statute of limitations for FCIC contract claims may permit litigation to be instituted after the period of record retention. Destruction of records prior to the expiration of the statute of limitations will not provide a defense to any action by FCIC against any private insurance company.

13. Redesignated § 400.413 is revised to read as follows:

§ 400.413 OMB control numbers.

The collecting of information requirements in this subpart has been approved by the Office of Management and Budget and assigned OMB control number 0563–0047.

Signed in Washington, D.C., May 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–13498 Filed 5–23–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations, Onion Endorsement; and Common Crop Insurance Regulations, Onion Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of onions. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Onion Endorsement under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Onion Endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Bill Klein, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments on information collection requirements previously approved by OMB under OMB control number 0563–0003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The producer must also annually certify to the number of acres and the previous years production, if adequate records are available to support the certification, or receive a transitional yield. The producer must maintain the production records to support the certification information for at least three years. This regulation does not alter those requirements.

The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reforms. The provisions of this rule will not have retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Thursday, February 13, 1997, FCIC published a proposed rule, in the **Federal Register** at 62 FR 6739–6746 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.135, Onion Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring onions found at 7 CFR 401.126 (Onion Endorsement). This rule also amends § 401.126 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments, data and opinions. A total of 28 comments were received from reinsured companies, an insurance service organization, and FCIC Regional Service Offices (RSO). The comments received, and FCIC's responses, are as follows:

Comment: An insurance service organization recommended that FCIC consider defining in section 1 the term ''onion'' or ''bulb onion'' to clarify that green (bunch) and seed onions are not insurable types.

Response: Insurable types of onions are clearly identified in section 7 (Insured Crop). The provision states in part ''* * * the crop insured will be all the onions (excluding green (bunch) or seed onions, chives, garlic, leeks, and scallions) in the county * * *''. Therefore, no change will be made in the definitions.

Comment: A reinsured company recommended deleting the definition for ''FSA'' in section 1 of the provisions because they do not see a need for this definition.

Response: FCIC disagrees with the recommendation. The term ''FSA'' is used numerous times in section 14, Late planting and Prevented Planting. Therefore, the definition has not been deleted.

Comment: A reinsured company recommended adding in section 1 the words ''and quality'' after the word ''quantity'' in the definition of ''irrigated practice.''

Response: FCIC agrees that water quality is an important issue. However, since no standards or procedures have been developed to measure water quality for insurance purposes, FCIC has elected not to include quality in the definition. Therefore, no change has been made.

Comment: A reinsured company recommended that either the master yield concept be incorporated or that onions be insured solely for production loss with a quality option endorsement to cover quality concerns.

Response: FCIC disagrees with the recommendations. The ''master yield'' is used by FCIC to establish an actual production history yield for crops that require several years between plantings in the same field to avoid buildup of insects, disease, or both. It is useful principally when optional units are authorized by section or section equivalent. For onions, however, location of land within a county is not a factor in determining eligibility for optional units. Therefore, each year's production is considered in establishing the APH yield regardless of the field in which the onions are planted. This differs materially from the conditions that necessitate the use of a master yield. Use of a master yield in the circumstances surrounding onion insurance would only complicate the onion insurance program needlessly.

FCIC considered a ''straight production'' policy but circumstances do not support the concept. In general, onions that do not meet U.S. No. 1 standards for storage onions or the applicable marketing order for non-

storage onions are not marketable. Furthermore, only a small percentage of onions normally fail to meet marketing requirements due to factors such as doubles, seeders, off color, or hand or machine damage. Thus, FCIC determined that adjustment for deficient quality best meets the risk management needs of onion producers.

Comment: A reinsured company and an insurance service organization recommended that optional units be made available by legal description (sections, etc), as is the case with similar crops.

Response: The rule authorizes optional units by irrigated and non-irrigated practice and by type. The only types allowed to be separated into optional units are those identified in the Special Provisions and include white, yellow, and red storage onions and two or more types of non-storage onions based on regional differences. Additional unit division by section or legal description would require further record keeping that may not be readily available based on past practices, increase producer premium, and further complicate the insurance program for onions. Therefore, the recommendation is not adopted in the final rule.

Comment: A reinsured company recommended that the percent of coverage for each stage be uniform nationwide and that it be included in section 3 of the crop provisions rather than being placed in the Special Provisions.

Response: The percentage of coverage for each stage is uniform nationwide. The term ''production guarantee'' is defined in section 1 and includes the percentages for each stage. The definition will remain in section 1. However, for clarity purposes the percentages have been added to the stages defined in section 3.

Comment: An insurance service organization commented that the language in section 3 describes the first stage as being ''* * * until the emergence of the third leaf * * *'', while the second stage is described as ''* * * extends from emergence of the fourth leaf * * *'' Commenters believe that the language leaves a gap between stage 1 and stage 2 and that the language in the first stage should be modified to read ''* * * through emergence of the third leaf.''

Response: FCIC agrees with the comment, and has amended provisions in section 3 accordingly.

Comment: An FCIC RSO suggested that the proposed three stages may be difficult to distinguish and would require extra effort to administer. The commenter recommended that two stages be used: (1) Prior to topping and lifting or digging, and (2) From topping and lifting or digging to the end of the insurance period.

Response: The three stages as defined in the proposed rule reflect the inputs through each stage of crop development. Transplants, for example, are immediately placed in the second stage based on producer inputs. The leaf count method of appraisal for onions is similar to appraisal methods for many other crops. Thus onion loss adjustment should not require significantly greater time to administer or be unduly difficult. Therefore, no change has been made.

Comment: An insurance service organization commented that it is confusing to have no first stage for transplanted onions, only a second and final stage. The industry suggested that it might be less confusing to have separate stage definitions for direct-seeded and for transplanted onions.

Response: Crops are divided into stages primarily to reflect insured's expenses in producing the crop and appropriate insurer liability. Transplanted onions are immediately placed in the second stage due to the additional cost incurred in purchasing the transplants, and the cost of transplanting. It would actually be more confusing to have two different stages, one for seed onions and one for transplanted onions. Therefore, no change has been made.

Comment: An insurance service organization commented that a contract change date 60 days before the sales closing date, as shown in section 4, may not provide sufficient time for producers to make informed risk management decisions. They contend that the companies will not have adequate time to make operational changes, to develop training materials, or to train agents. Even a contract change date three months ahead of the sales closing creates problems in getting necessary information to insureds on a timely basis.

Response: While FCIC is sensitive to the industry's concerns for timely information, FCIC believes that a contract change date 60 days prior to the sales closing date allows the companies adequate time to perform all required tasks in a timely manner. Furthermore, major changes in the crop provisions are published in the **Federal Register** prior to the contract change date. This provides companies additional lead time to begin implementing changes. The June 30 and November 30 contract change dates contained in section 4 are consistent with other crops. For these reasons, no change has been made.

Comment: One commenter from a reinsured company questioned if 70 days, as listed in section 7, provides sufficient time to harvest wheat interplanted with onions to function as a windbreak in the Pacific Northwest where this is a common practice.

Response: Wheat planted for this purpose is only a windbreak and is not intended for harvest. Harvesting wheat grown with an insured onion crop will violate the onion contract.

Comment: One commenter from a reinsured company suggested that FCIC consider changing the provisions in section 8 which address crop rotation requirements. They maintained that onion growers in the Vidalia region plant onions following onions year after year, apparently with no adverse effect on yields. Current language requires producers to request written agreements every year unless the Special Provisions provide different rotation requirements. The commenter noted that they did not know what information will be provided in the Special Provisions. However, for the Vidalia region FCIC must allow different rotation requirements without requiring additional paperwork.

Response: In most areas of the country, rotating onion acreage to control disease and insects is a good farming practice. Consequently, standard rotation requirements were placed in the crop provisions. The Special Provisions contain the requirements that are specific for the county and are received by the insured with the other policy documents. If a different rotation practice is appropriate for any area, FCIC will allow that rotation practice in the Special Provisions. Therefore, no change has been made.

Comment: An insurance service organization commented that the State of Washington was listed in section 9 with a July 31 end of insurance period, but was not listed in item 10 of the summary of changes. The industry questioned whether Washington was inadvertently omitted from the summary.

Response: FCIC inadvertently omitted the state of Washington from item 10 of the summary. The reference in section 9 is correct.

Comment: An insurance service organization commented that, under section 9, the end of the insurance period for Colorado would be October 15. The summary of changes states that this is a date change for Colorado, but the Automated Date Table already shows October 15 for the 1997 crop year.

Response: The date table published for the 1997 crop year is incorrect. The regulations at § 401.126 specify the end of insurance date for Colorado is September 30. Therefore, the summary of changes is correct.

Comment: An FCIC RSO recommended two changes in section 9: (1) That the term ''fall planted'' be changed to ''fall direct seeded'' or ''winter transplanted'', and (2) the end of the insurance period be changed from June 15 to June 1 for the State of Georgia. The commenter stated that the date change recommendation resulted from consultation with extension personnel, and the commenter stated that the additional 14 days increases the risk of heat damage to Georgia onions not harvested by June 1.

Response: FCIC has determined that the terms are production practices that should properly be defined in the Special Provisions. The recommended change to the end of insurance period for Georgia is adopted.

Comment: An FCIC RSO commented that the time allowed after lifting or digging of non-storage onions until the end of the insurance period was too short. A maximum of 14 days was recommended versus the presently allowed 2 days after lifting or digging.

Response: Based on additional research, FCIC agrees with the recommendation and has made the change accordingly.

Comment: An insurance service organization recommended that the words ''for the type'' be added to section 11 after the words ''by your price election'' to clarify the price used in determining the maximum amount of the replanting payment per acre.

Response: FCIC agrees with the recommendation and has amended the language accordingly.

Comment: A reinsured company recommended that the maximum amount of replant payment in section 11 be changed from ''* * * the lesser of 7 percent of the final stage production guarantee or 18 hundredweight * * *'' to ''* * * the lesser of 10 percent of the final stage production guarantee or 20 hundredweight.'' The commenter reasoned that since most guarantees exceed 200 hundredweight, these recommendations will provide a more equitable replant payment.

Response: A replanting payment equal to the lesser of 7 percent or 18 hundredweight was based on extensive research of the actual cost of replanting. These costs do not differ materially if the crop yields 200 or 500 hundredweight. Therefore, no change has been made.

Comment: An insurance service organization stated that they did not understand the intent of the language in section 13(c)(1)(vi)(C) and how it related to items 13(c)(1)(vi)(A) and 13(c)(1)(vi)(B). They noted that they previously took exception with allowing the insured to wait for a later, probably lower appraisal. They did not believe that the language in section 13(c)(1)(vi)(C) resolved the issue.

Response: After further review, FCIC agrees that the language in section 13(c)(1)(vi)(C) does not relate well to sections 13(c)(1)(vi)(A) and 13(c)(1)(vi)(B) and does not further clarify section 13(c)(1)(vi)(A) as was intended. Therefore, FCIC has been deleted 13(c)(1)(vi)(C).

Comment: A reinsured company and an insurance service organization expressed concern that the language in section 13(d) seemed to address only unharvested production and questioned the meaning of the clause ''* * * no production will be counted if the appraised percent of damage exceeds the percentage shown in the Special Provisions.''

Response: FCIC agrees that the language was unclear and has modified the language to read ''If the percent of damaged onion production, harvested or unharvested, is determined to exceed the percentage shown by type in the Special Provisions * * *'' to clearly specify both harvested and unharvested onion production that is damaged. Thus, for example, if the percentage shown on the Special Provisions is 50 percent for non-storage type onions, and the percent of actual damage exceeds 50 percent, then the production to count would be zero for that acreage. Onions with a high percent of damage generally have no value.

Comment: An FCIC RSO recommended that the percentage factors referenced in section 13(d) be uniform nationwide and be placed in the Crop Provisions rather than in the Special Provisions. This person recommended a graduated system in which an appraised percent of damage between 0 and 30 percent resulted in no damage, but the amount of production would be reduced by five percent for each 1 percent of damage between 31 percent and 50 percent. Damage in excess of 50 percent would result in no production to count.

Response: Allowable damage differs by region and type. Listing the percentage in the Special Provisions permits recognition of these differences. Therefore, no change has been made.

Comment: An insurance service organization communicated an anticipation that the substitute crop provision in section 14 under the prevented planting coverage will be eliminated for the 1998 crop year.

Response: FCIC is currently working on a regulation that will propose numerous revisions to the prevented planting coverage. The substitute crop provision is among those revisions. Until that rule is finalized, the current prevented planting coverage will continue.

Comment: An insurance service organization commented that some recently revised crop provisions have deleted the reference to base acres for non-program crops. Although the comment did not specifically recommend removal of these provisions from the onion crop provisions, this was clearly the intent.

Response: FCIC agrees with the comment and is currently working on a regulation that proposes to delete reference to base acres.

Comment: A reinsured company recommended reducing the prevented planting percentages in section 14 from 40 percent to 35 percent for unplanted acreage, and from 20 percent to 17.5 percent for acreage planted to a substitute crop. The commenter reasoned that the recommended percentages would be more consistent with other policies (such as cotton, rice, and sugar beets) that insure high-value crops.

Response: After additional study, FCIC agrees with the comment and has amended section 14 to read 35 percent for unplanted acreage and 17.5 percent for acreage planted to a substitute crop.

Comment: An insurance service organization commented that the language in section 14 refers to double-cropping in ''* * * each of the last 4 years in which the insured crop was grown on the acreage.'' Earlier crop provisions required a history of double-cropping in each of the last 4 years, which was interpreted to mean the last 4 consecutive calendar years, not APH crop years. The commenter observed that this is a significant change and questioned if it had been discussed in recent meetings where prevented planting was a topic.

Response: Initial crop policies converted to the Common Crop Insurance Policy contained language appropriately interpreted to mean the last 4 consecutive calendar years. More recent crop provisions contain language that specifies each of the last 4 years in which the insured crop was grown on the acreage. This issue has been discussed in a number of recent prevented planting meetings at which industry representatives were present. The restriction that limited eligibility to

4 calendar years is unduly restrictive because it does not recognize normal practices on a typical farm that employs a double-cropping practice.

Comment: An FCIC RSO recommended deleting language in section 14 that refers to participation in USDA programs that limit the number of acres planted for the crop year to base acres, and to nonparticipation in USDA programs, because these provisions do not apply to onions.

Response: FCIC agrees with the comment and is currently working on a regulation that proposes to delete these references. However, this language will not be deleted from Crop Provisions until that regulation has become a final rule. This provides consistency among policies. Therefore, no change has been made.

Comment: An insurance service organization suggested combining the provisions contained in section 15(e) with the provisions in section 15(a).

Response: The requirement that a written agreement be requested on or before the sales closing date is intended to be the rule. The exception provided in section 15(e) is only available in specific limited circumstances. Therefore, no change will be made.

Comment: A reinsured company and an insurance service organization recommended removal of the requirement in section 15 that a written agreement be renewed each year. The terms should be stated in the agreement to fit the particular situation for the policy, and, if no substantive changes occur from one year to the next, the written agreement should be continuous. Limiting written agreements to one year only increases administrative cost, complexity, and the opportunities for misunderstanding and error.

Response: Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is not intended that written agreements be so numerous that they would significantly increase administrative costs and cause producer misunderstanding. It is important to minimize written agreement exceptions to assure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

In addition to the changes described above, and minor reformatting and word changes for clarity, FCIC has made the following changes:

1. Changed the term ''third stage'' to ''final stage'' throughout the text for clarification.

2. Section 1—Amend the terms ''onion production'' and production guarantee (per acre) and added the term ''damaged onion production'' in order to standardize the guidelines to be used in determining damaged onions.

3. Section 3(b)—Modified the language to read ''the stages are for any acreage in the unit * * *'' that qualify for a specific stage. Previously the language describing stages 2 and 3 read ''* * * 25 percent of the acreage in the unit * * *.'' Stages are now on an acre basis rather than a unit basis.

4. Section 13—Deleted section 13(c)(1)(vi)(C) based on proposed rule comments that the provision did not relate well to sections 13(c)(1)(vi)(A) and 13(c)(1)(vi)(B) and that it did not further clarify section 13(c)(1)(vi)(A) as was intended.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the onion insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among the policies. The earliest contract change date that can be met for the 1998 crop years is June 30, 1997. It is therefore, imperative that these provisions be made final before that date so that the reinsured companies and insureds may have sufficient time to implement these changes. Therefore, public interest requires the agency to make the rules effective upon publication.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Onion crop insurance regulations, Onions.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 effective for the 1998 and succeeding crop years to read as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. In § 401.126 the introductory paragraph is revised to read as follows:

§ 401.126 Onion endorsement.

The provisions of the Onion Endorsement for the 1988 through the 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

4. Section 457.135 is added to read as follows:

§ 457.135 Onion Crop Insurance Provisions.

The Onion Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Onion Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions.

Crop year. The period of time in which the onions are normally grown and designated by the calendar year in which the onions are normally harvested.

Damaged onion production. Storage type onions that do not grade U.S. No. 1 or do not satisfy any other standards that may be contained in the Special Provisions; or non-storage type onions which do not satisfy standards contained in any applicable marketing order or other standards that may be contained in the Special Provisions.

Days. Calendar days.

Direct Marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of harvesting all or a portion of the crop.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor Agency.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used

to determine the production guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. Removal of the onions from the field after topping and lifting or digging.

Hundredweight. 100 pounds avoirdupois.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Late planted. Acreage planted to the insured crop during the late planting period.

Late planting period—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

Lifting or digging. A pre-harvest process in which the onion roots are severed from the soil and the onion bulbs laid on the surface of the soil for drying in the field.

Non-storage onions. Generally of a Bermuda, Granex, or Grano variety, or hybrids developed from these varieties, that are harvested as a bulb and dried only a short time, and consequently have a higher moisture content. They are thinner skinned, contain a higher sugar content, and are generally milder in flavor than storage onions. Due to a higher moisture and sugar content, they are subject to deterioration both on the surface and internally if not used shortly after harvest.

Onion production. Onions of recoverable size and condition, with excess dirt and foliage material removed and that are not considered damaged onion production.

Planted acreage. Land in which onion seed has been placed by a machine appropriate for the insured crop and planting method, or in which onion plants or sets have been transplanted by machine or by hand, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Onions must initially be planted in rows to be considered planted.

Practical to replant. In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

Prevented planting. Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Production guarantee (per acre):

(a) First stage production guarantee—Thirty-five percent (35%) of the final stage production guarantee.

(b) Second stage production guarantee—Sixty percent (60%) of the final stage production guarantee.

(c) Final stage production guarantee—The quantity of onions (in hundredweight) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

Replanting. Performing the cultural practices necessary to replace the onion seed or onion transplants, and then replacing the onion seed or onion transplants in the insured acreage with the expectation of growing a crop that will produce at least the yield used to determine the production guarantee.

Storage onions. Onions other than a Bermuda, Granex, or Grano variety, or hybrids developed from these varieties that are harvested as a bulb and dried to a lower moisture content, are firmer, have more outer layers of paper-like skin, and are darker in color than non-storage onions. They are generally more pungent, have a lower sugar content, and can normally be stored for several months under proper conditions prior to use without deterioration.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Topping. A pre-harvest process to initiate curing, in which onion foliage is removed or bent over.

Type. A category of onions as identified in the Special Provisions.

Written agreement. A written document that alters designated terms of this policy in accordance with section 15.

2. Unit Division.

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(d) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until after loss adjustment is completed by us; and

(4) Optional units meet one or more of the following, as applicable, unless otherwise provided by written agreement:

(i) *Optional Units Based on Irrigated Acreage or Non-Irrigated Acreage:* To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which your guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which the center pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center pivot irrigation system is used may qualify as a separate optional unit provided all requirements of this section are met; or

(ii) *Optional Units Based on Onion Type:* To qualify for a separate optional unit by type, that type of onion must be designated in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the onions in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each onion type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) Your production guarantee progresses, in stages, to the final stage production guarantee. Stages will be determined on an acre basis and at least 75% of the plants on such acreage must be at the same stage to qualify for the applicable stage guarantee. The stages are as follows:

(1) First stage extends from planting through the emergence of the third leaf for

direct seeded onions, and has a guarantee of 35 percent of the final stage production guarantee.

(2) Second stage extends from emergence of the fourth leaf for direct seeded onions, or from transplanting of onion plants or sets, until the acreage has been subjected to topping and lifting or digging, and has a guarantee of 60 percent of the final stage production guarantee.

(3) Final stage extends from the completion of topping and lifting or digging on the acreage until the end of the insurance period, and is the quantity of onions (in hundredweight) determined by multiplying the approved yield per acre by the coverage level percentage elected.

(c) Any acreage of onions damaged in the first or second stage, to the extent that producers in the area would not normally further care for the onions, will be deemed to have been destroyed even though you may continue to care for the onions. The production guarantee for such acreage will not exceed the production guarantee for the stage in which the damage occurred.

4. Contract Changes.

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is June 30 preceding the cancellation date for counties with an August 31 cancellation date, and November 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates.

In accordance with section 2 (Life of the Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State and county	Cancellation and termination date
All Georgia Counties; Umatilla County, Oregon; Kinney, Uvalde, Medina, Bexar, Wilson, Karnes, Bee, and San Patricio, Counties, Texas, and all Texas Counties lying south thereof; Walla Walla County, Washington.	Aug. 31.
All other states and counties	Feb. 1.

6. Annual Premium.

In lieu of the provisions of section 7(c) (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is computed by multiplying the final stage production guarantee by the price election, the premium rate, the insured acreage, your share at the time of planting, and any applicable premium adjustment factors contained in the Actuarial Table.

7. Insured Crop.

In accordance with section 8 (Insured Crop of the Basic Provisions (§ 457.8), the crop insured will be all the storage and non-storage onions (excluding green (bunch) or seed onions, chives, garlic, leeks, and scallions) in the county for which a premium rate is provided by the Actuarial Table:

(a) In which you have a share;

(b) That are planted for harvest as either storage onions or non-storage onions;

(c) That are not (unless allowed by the Special Provisions or by written agreement):

(1) Interplanted with another crop, unless the onions are interplanted with a windbreak crop and the windbreak crop is destroyed within 70 days after completion of seeding or transplanting; or

(2) Planted into an established grass or legume.

8. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage of the insured crop that:

(a) Was planted the previous year to storage or non-storage onions, green (bunch) onions, seed onions, chives, garlic, leeks, shallots, or scallions unless different rotation requirements are specified in the Special Provisions or we agree in writing to insure such acreage; or

(b) Is damaged before the final planting date to the extent that the majority of producers in the area would normally not further care for the crop and is not replanted, unless we agree that it is not practical to replant.

9. Insurance Period.

(a) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the acreage must be planted on or before the final planting date designated in the Special Provisions except as allowed in section 14(c).

(b) The insurance period ends at the earliest of:

(1) The calendar date for the end of the insurance period as follows:

(i) June 1 for Vidalia, and any other non-storage onions planted in the State of Georgia;

(ii) July 15 for 1015 Super Sweets, and any other non-storage onions in the State of Texas;

(iii) July 31 for Walla Walla Sweets, and any other non-storage onions in the states of Oregon and Washington;

(iv) August 31 for all non-storage onions in any other state; and

(v) October 15 for all storage onions; or

(2) The following event for each unit or portion of a unit:

(i) Removal of the onions from the field; or

(ii) Fourteen days after lifting or digging.

10. Causes of Loss.

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife, unless control measures have not been taken;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss not insured against as listed in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, loss of production that occurs after onions have been placed in storage.

11. Replanting Payment.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the final stage production guarantee for the acreage and we determine that it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 7 percent of the final stage production guarantee or 18 hundredweight multiplied by your price election for the type and by your insured share.

(c) When onions are replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

12. Duties in the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), any representative samples of the unharvested crop that may be required must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count that is not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

13. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide production records:

(1) For any optional units, we will combine all optional units for which acceptable production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result of section 13(b)(1) by the respective price election;

(3) Totaling the results in section 13(b)(2);

(4) Multiplying the total production to be counted (see section 13(c)) by the respective price elections you chose;

(5) Totaling the results of section 13(b)(4);

(6) Subtracting the result in section 13(b)(5) from the result in 13(b)(3); and

(7) Multiplying the result in section 13(b)(6) by your share.

(c) The total production (in hundredweight) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) That is direct marketed to consumers if you fail to meet the requirements contained in section 12;

(C) Put to another use without our consent;

(D) That is damaged solely by uninsured causes; or

(E) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested onion production (mature unharvested production may be adjusted based on the percent of damaged onion production in accordance with section 13(d));

(iv) The appraised production that exceeds the difference between the first or second stage (as applicable) and the final stage production guarantee for acreage that does not qualify for the final stage guarantee, if such acreage is not subject to section 13(c)(1)(i) and (ii); and

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop.

(vi) If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. (The amount of production to count for such acreage will be based on the harvested onion production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested onion production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested onion production from the insurable acreage.

(d) If the damage to onion production (harvested or unharvested) exceeds the percentage shown by type in the Special Provisions, no production will be counted for that unit or portion of a unit unless the damaged onion production from that acreage is subsequently sold.

(e) The extent of any damaged onion production must be determined not later than the time onions are placed in storage if the production is stored prior to sale, or the date the onions are delivered to a packer, processor, or other handler if production is not stored.

14. Late Planting and Prevented Planting.

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8) regarding acreage initially planted after the final planting date and the applicability of a Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 14(c)) and you were prevented from planting (see section 14(d)). These coverages provide reduced production guarantees. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided, no premium will be due, and no indemnity will be paid for such acreage.

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

(c) Late Planting

(1) For onion acreage planted during the late planting period, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (1%) per day for the 1st through the 10th day; and

(ii) Two percent (2%) per day for the 11th through the 25th day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of onions continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from timely planting onions, you may elect:

(i) To plant onions during the late planting period. The production guarantee for such acreage will be determined in accordance with section 14(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the production guarantee for such acreage will be 35 percent of the final stage production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 300 hundredweight per acre, your prevented planting production guarantee would be 105 hundredweight per acre (300 hundredweight multiplied by 0.35). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 13; or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting production guarantee will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) A production guarantee equal to 17.5 percent of the final stage production guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your production guarantee for timely planted acreage is 300 hundredweight per acre, your prevented planting production guarantee would be 52.5 hundredweight per acre (300 hundredweight multiplied by 0.17.5). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Production guarantees for timely, late, and prevented planting acreage within a unit will be combined to determine the production guarantee for the unit. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting production guarantee. The production guarantee for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre production guarantee for timely

planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by:

(A) Thirty-five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Seventeen and one-half percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop (This paragraph (B) is not applicable, and prevented planting coverage is not available under these crop provisions, if you elected the Catastrophic Risk Protection Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 14(d)(1)(iii)).)

Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(3) You must have the inputs available to plant and produce the intended crop with the expectation of at least producing the production guarantee. Proof that these inputs were available may be required.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for onions for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for onions in the county. If the onion coverage remains in effect for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year) prevented planting coverage for the 1999 crop year began on the 1998 sales closing date. Cancellation for the purposes of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to onions on the FSA Farm Serial Number during the previous crop year; or

(C) One-hundred percent of the simple average of the number of acres planted to onions during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) A prevented planting production guarantee will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years in which the insured crop was grown on the acreage;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop as specified in section 14 (d)(2)(iii)(A) or a substitute crop allowed in section 14 (d)(2)(iii)(B)), unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years in which the insured crop was grown on the acreage;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of onion acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of onions on one optional unit and 40 acres of onions on the second optional unit, your prevented planting eligible acreage would be reduced to zero (*i.e.,* 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting production guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

15. Written Agreements.

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for written agreement must contain all terms of the contract between the insurance provider and the insured that will be in effect if the written agreement is not approved;

(c) If approved by us, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year. (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the

acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on. May 19, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–13801 Filed 5–23–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Housing Service

Rural Business—Cooperative Service

Rural Utilities Service

7 CFR Parts 1910, 1941, 1943, 1945, and 1980

RIN 0560–AE87

Implementation of the Direct and Guaranteed Loan Making Provisions of the Federal Agricultural Improvement Act of 1996: Correction

AGENCY: Farm Service Agency, USDA.

ACTION: Interim rule, correction; and correcting amendments.

SUMMARY: This document contains corrections to the interim regulations that were published Monday, March 3, 1997 (62 FR 9351–59). Technical corrections are also made to CFR sections not originally included in the interim rule. The regulations pertained to the loan making provisions of the Farm Service Agency (FSA) farm loan programs.

EFFECTIVE DATE: The corrections to the interim rule and the correcting amendments are effective May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Steven R. Bazzell, Senior Loan Officer, Farm Service Agency. Telephone: 202–720–3889; facsimile: 202–690–1117; or e-mail: sbazzell@wdc.fsa.usda.gov

SUPPLEMENTARY INFORMATION:

Background

The interim final regulations, which are the subject of these corrections, implemented the direct and guaranteed FSA farm loan making provisions of the Federal Agricultural Improvement Act of 1996 (Act). The public comment period ended on May 2, 1997.

Need for Correction

As published, the interim final regulations contain errors that either conflict with the Act, are misleading or are in need of clarification. Conflicts with the statutory language of the Act require some corrections not originally included in the interim rule published on March 3, 1997. Those corrections are as follows: (a) Section 1910.5 of 7 CFR part 1910, subpart A, is corrected by incorporating a provision that renders an applicant ineligible for most types of FSA loan assistance when they have received debt forgiveness. (b) Section 1943.13 of 7 CFR part 1943, subpart A, is corrected by removing references to the ''sale of acquired property'' and ''credit sales'' to socially disadvantaged applicants, since this is eliminated by the Act. (c) Section 1980.106 of 7 CFR part 1980, subpart B, is corrected by removing a reference to ''non-farm enterprises'' contained in the ''farm'' definition because non-farm enterprises are no longer financed by the Agency under the Act.

List of Subjects

7 CFR Part 1910

Application processing, Loan programs-agriculture.

7 CFR Part 1941 and 1943

Applicant eligibility, Beginning farmers and ranchers, Loan programs-agriculture.

7 CFR Part 1945

Disaster assistance, Loan programs-agriculture.

7 CFR Part 1980

Beginning farmers and ranchers, Loan guarantees, Loan programs-agriculture.

Accordingly, 7 CFR chapter XVIII is corrected by making the following correcting amendments:

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart A—Receiving and Processing Applications

2. Section 1910.5 is amended by revising the introductory text of paragraph (c) as set forth below and removing paragraph (c)(6).

§ 1910.5 Evaluating applications.

* * * * *

(c) When the applicant, including any members of an entity applicant, caused the Agency a loss by receiving debt forgiveness, they are ineligible for assistance in accordance with applicable program eligibility regulations. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness. The following circumstances do not automatically indicate an unacceptable credit history:

* * * * *

PART 1941—OPERATING LOANS

3. The authority citation for part 1941 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

4. Section 1941.12, paragraphs (a)(8), (a)(11), (b)(9) and (b)(12) are revised to read as follows:

§ 1941.12 Eligibility requirements.

* * * * *

(a) * * *

(8) Have not executed a promissory note for a direct OL loan in more than 6 different calendar years prior to the calendar year that the requested direct OL loan will close. This eligibility restriction applies to anyone who signs the promissory note. Youth loans are not counted as direct OL loans for the purpose of this paragraph.

* * * * *

(11) Not be delinquent on any Federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date.

(b) * * *

(9) Have no member of the business entity who has executed a promissory note for direct OL loans in more than 6 different calendar years prior to the calendar year that the requested direct OL loan will close. This eligibility restriction applies to anyone who signs the promissory note. Youth loans are not counted as direct OL loans for the purpose of this paragraph.

* * * * *

(12) Not be delinquent on any Federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date. This eligibility restriction applies to the entity and all of its members.

* * * * *

§ 1941.16 [Corrected]

5. Section 1941.16(i)(2) is amended by removing the word ''owned'' and adding the word ''owed'' in its place.

Subpart B—Closing Loans Secured by Chattels

§ 1941.88 [Corrected]

6. In § 1941.88(c), the first sentence is amended by removing the word ''more'' and adding the word ''less'' in its place.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

7. The authority citation for part 1943 continues to read as follows:

Authority: 5 U.S.C. 301, and 7 U.S.C. 1989.

Subpart A—Direct Farm Ownership Loan Policies, Procedures and Authorizations

§ 1943.4 [Corrected]

8. Section 1943.4(e) is amended by adding ''Except for OL loan purposes,'' at the beginning of the first sentence.

9. Section 1943.12 (a)(11) and (b)(11) is revised to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

* * * * *

(a) * * *

(11) Not be delinquent on any Federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date.

(b) * * *

(11) Not be delinquent on any Federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date. This eligibility restriction applies to the entity and all of its members.

* * * * *

§ 1943.13 [Corrected]

10. Section 1943.13 is amended by:

a. Removing from the introductory text of paragraph (a) and (b) the words ''and Acquired Property.''

b. Removing paragraph (a)(2).

c. Redesignating paragraphs (a)(3), (4) and (5) as paragraphs (a)(2), (3) and (4), respectively.

d. Removing the phrase ''and credit sale'' and removing the word ''programs'' and adding the word ''program'' in its place in paragraph (a)(1) and newly designated paragraph (a)(3).

e. Removing the phrase ''and acquired farmland'' and removing the word ''programs'' and adding the word ''program'' in its place in paragraph (b)(1).

§ 1943.16 [Corrected]

11. Section 1943.16, paragraph (b) is amended by adding a new sentence at the end of the paragraph to read, ''In the case of leased property, the borrower must have a lease to ensure use of the improvement over its useful life or to ensure that the borrower receives compensation for any remaining economic life upon termination of the lease.

PART 1945—EMERGENCY

12. The authority citation for part 1945 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 42 U.S.C. 1480.

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

§ 1945.167 [Corrected]

13. Section 1945.167, paragraph (a) is amended by revising the last sentence to read, ''Chattel property must have been covered at the tax or cost depreciated value, whichever is less, when such insurance was readily available and the benefit of the coverage (the lesser of the property's tax or cost depreciated value) was greater than the cost of the insurance.''

§ 1945.175 [Corrected]

14. Section 1945.175 is amended by adding the word ''not'' after the word ''chattels'' in the second to the last sentence of paragraph (c)(3), and by revising the last sentence to read, ''Chattels that the applicant did not own on the date set forth in paragraph (c)(2) of this section will be appraised at the present market value.''

PART 1980—GENERAL

15. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 42 U.S.C. 1480.

Subpart B—Farmer Program Loans

§ 1980.106 [Corrected]

16. Section 1980.106 is corrected by removing the second sentence of the definition of a ''Farm.''

17. Section 1980.174, paragraph (a) introductory text is revised to read as follows:

§ 1980.174 Percentage of guarantee.

* * * * *

(a) The maximum percentage of guarantee is 90 percent, except in the following situations when lenders will be provided a 95 percent guarantee:''

* * * * *

§ 1980.175 [Corrected]

18. Section 1980.175 is amended by:

a. Revising the third and fourth sentences of paragraph (b) to read, ''Further, the applicant, and anyone who will execute the promissory note, cannot be delinquent on any federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date.''

b. Amending the first sentence of paragraph (c)(2)(ii) by adding after the word ''creditors'' the phrase ''or the lender.''

c. Revising the first sentence of paragraph (d)(1) to read, ''No guaranteed OL loan shall be made to any applicant after the 15th year that an applicant, or any individual signing the promissory note, received direct or guaranteed OL loans.''

§ 1980.180 [Corrected]

19. Section 1980.180 is amended by:

a. Removing the last sentence of paragraph (a).

b. Removing the word ''Agency'' and adding the word ''lender'' in its place in the last two sentences of paragraph (c)(1).

c. Adding the phrase ''FO or OL'' after the word ''authorized'' in paragraph (c)(5).

§ 1980.190 [Corrected]

20. Section 1980.190(e) is amended by removing the phrase ''but not more than 90 percent'' and adding the phrase, ''but not more than that allowed under applicable program regulations'' in its place.

Signed at Washington, D.C., on May 16, 1997.

Richard O. Newman,

Acting Administrator, Farm Service Agency.

[FR Doc. 97–13702 Filed 5–23–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–040–1]

Change in Disease Status of Spain Because of Hog Cholera

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by removing Spain from the list of countries considered to be free from hog cholera. We are taking this action based on reports we have received from Spain's Ministry of Agriculture that an outbreak of hog cholera has occurred in Spain. As a result of this action, there will be additional restrictions on the importation of pork and pork products into the United States from Spain, and the importation of swine from Spain will be prohibited.

DATES: Interim rule effective April 18, 1997. Consideration will be given only

to comments received on or before July 28, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–040–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–040–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from countries where hog cholera is known to exist. Section 94.10 of the regulations, with certain exceptions, prohibits the importation of swine which originate in or are shipped from or transit any country in which hog cholera is known to exist. Sections 94.9(a) and 94.10(a) of the regulations provide that hog cholera exists in all countries of the world except for certain countries listed in those sections.

Prior to the effective date of this interim rule, Spain was included in the lists in §§ 94.9(a) and 94.10(a). On April 18, 1997, Spain's Ministry of Agriculture reported that an outbreak of hog cholera had occurred in that country. After reviewing the reports submitted by Spain's Ministry of Agriculture, the Animal and Plant Health Inspection Service (APHIS) has determined it to be necessary to remove Spain from the list of countries considered to be free of hog cholera.

Therefore, we are amending §§ 94.9(a) and 94.10(a) by removing Spain from the list of countries considered to be free of hog cholera. We are making this amendment effective retroactively to April 18, 1997, because that is the day that an outbreak of hog cholera was confirmed by Spain's Ministry of Agriculture. As a result of this action, the importation of swine from Spain is prohibited, and pork and pork products from Spain will not be eligible for entry into the United States unless the pork or pork products are cooked or cured and dried in accordance with the regulations.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction of hog cholera into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective on April 18, 1997. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the regulations by removing Spain from the list of countries that are considered to be free of hog cholera. We are taking this action based on reports we have received from Spain's Ministry of Agriculture, which confirm that an outbreak of hog cholera has occurred in Spain.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to April 18, 1997; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.9 [Amended]

2. In § 94.9, paragraph (a) is amended by removing the word ''Spain,''.

§ 94.10 [Amended]

3. In § 94.10, paragraph (a) is amended by removing the word ''Spain,''.

Done in Washington, DC, this 19th day of May 1997.

Donald L. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–13716 Filed 5–23–97; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–0951]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing final revisions to Regulation C (Home Mortgage Disclosure). The revisions implement the amendments to the Home Mortgage Disclosure Act included in the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The action makes final an interim rule adopted in January, which set the asset-exemption threshold for depository institutions at $28 million. The final rule also establishes an alternative way for institutions to provide disclosure statements in metropolitan areas where they have branch offices, which they may begin using immediately. In addition, the Board is extending its information collection authority under the Paperwork Reduction Act for another three years, and making technical amendments to the transmittal sheet accompanying the loan/application register.

DATES: *Effective date.* This rule is effective July 1, 1997.

Applicability date. This rule applies to all data collection in 1997.

Compliance date. Voluntary compliance with the disclosure provisions in § 203.5 and paragraphs III. D., E., and F. of Appendix A to Part 203 can begin June 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Senior Attorney, or Manley Williams, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667; for the hearing impaired *only,* Diane Jenkins, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801 *et seq.*) requires most mortgage lenders located in metropolitan statistical areas (MSAs) to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR Part 203) carries out the provisions of HMDA. Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (the 1996 Act) (Pub. L. 104–208, 110 Stat. 3009) amended HMDA to expand the exemption for small depository institutions and modify the disclosure requirements.

To implement the amendments to HMDA, in December 1996 the Board published a proposal for public comment. (61 FR 68168, Dec. 27, 1996.) The Board received about 30 comment letters. The comments came from community groups, financial institutions and their representatives, and financial services firms. Overall, the commenters supported the proposed amendments, although views were mixed on some issues. Based on a review of the comment letters and upon further analysis, the Board has made some changes to the proposal, as discussed below. The revised exemption for depository institutions is applicable to all data collection in 1997. Compliance with the revised disclosure provisions is optional until July 1, 1997, the effective date for mandatory compliance.

II. Revisions

A. Increasing the Exemption Based on Asset Size

The 1996 Act increased the asset-size exemption for depository institutions. Previously, depository institutions with assets of $10 million or less were exempt from HMDA. The 1996 Act adjusts the $10 million figure by the change since 1975 in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW)—rounded to the nearest million—and provides for annual adjustments thereafter in accordance with CPIW changes. In January, the Board published an interim rule to implement the first threshold change. This change reflects the change in the CPIW (not seasonally adjusted) from 1975 through 1996. On an annual average basis, the ratio of the CPIW for 1996 to the CPIW for 1975 was 2.848. Thus, the new threshold, rounded to the nearest million, is $28 million. Depository institutions with assets of $28 million or less as of December 31, 1996 are not required to collect HMDA data in 1997. (62 FR 3603, Jan. 24, 1997.) The Board is now publishing final revisions to § 203.3(a)(1)(ii) of Regulation C and making conforming amendments to Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register, and to Supplement I—Staff Commentary.

Under the proposal, the annual adjustments to the asset-size exemption threshold were to be based on the change in the CPIW data for the month of December as compared to the previous December, and published in the **Federal Register** as soon as those data became available in January. The proposal requested comment, however, on whether the Board should base the annual adjustments on the data for the month of November instead, which would allow the Board to announce the new threshold by year-end. Many of the commenters on this issue recommended that the Board use the November data, suggesting that this could reduce burden by providing certainty and predictability of coverage for the initial weeks of the reporting year. Other commenters recommended using the December data because of the potential for a higher threshold. A few commenters recommended that the Board publish an initial threshold based on the November data and revise it upward, if appropriate, based on the December data.

A related issue is whether the annual adjustments should be based on the CPIW data for December of the current year as compared to the CPIW data for December of the previous year, or on the annual average of the CPIW for the current year compared to the annual average of the CPIW for the previous year. Under the proposal, the annual adjustments to the asset-size exemption threshold were to be based on comparing the data for December with the data for the previous December. Some commenters asserted that this would produce undesirable volatility in the annual adjustments, especially because the Board would not be using seasonally adjusted numbers.

Based on the comments and upon further analysis, the Board has decided to base the threshold change on the annual average of the CPIW data for the 12-month period ending in November. Because the 1996 Act provides that the increase should be based on the ''annual percentage increase,'' the Board believes that comparing the average of 12 months of data with the average of the prior 12 months of data, would be more appropriate than comparing the data for a single month with the data for that month in the prior year. The Board also believes that basing the threshold change on a 12-month period ending in November rather than on a 12-month period ending in December would be less burdensome. This will allow the Board to revise the regulation and publish the new threshold in the **Federal Register** in December, for compliance beginning January 1. Although in some cases this could result in a lower threshold than if the Board used a 12-month average ending in December, a review of the CPIW data suggests that such instances would be rare.

B. Alternative Disclosure Statement Requirements

The 1996 Act amends section 304 of HMDA (12 U.S.C. 2803) to provide that an institution must make its disclosure statement available at the institution's home office and either (1) in at least one

branch office in each additional MSA where the institution has offices; or (2) provide notice that the disclosure statement is available from the home office upon written request, and mail or deliver a copy within fifteen calendar days of receiving a written request.

The proposal did not require institutions to receive requests at their home office, but permitted them to specify the address where requests should be sent, for more efficient distribution of the data. The proposal also did not require an institution to post a notice identifying the address where a written request should be sent. A number of community group commenters expressed concern that eliminating the requirement that the disclosure be available at certain branches would result in the diminished availability of the HMDA data in many cases, and a reduction in timely access to the data in almost all cases. They believed that these problems would be exacerbated if institutions did not post the address to which requests for disclosures should be sent.

The statute requires that institutions which opt for the alternative branch disclosure approach must provide a notice at branch offices stating that the information is available from the home office upon request. This provision could be read to require that requests go to institutions' home offices, but the Board does not believe that such a strict interpretation is necessary. The intent of the provision is to reduce burden while preserving the public availability of the data. The Board believes that if an institution chooses to specify a service center or a central location for requests relating to all banks in a multibank holding company, for example, that is permissible. After consideration of the comments and upon further analysis, however, the Board has determined that to preserve the public availability of the data, it is reasonable and appropriate to require banks to post the address to which a request should be sent. Accordingly, the final rule permits institutions that elect to provide the information upon request instead of at one branch per MSA, to select the address to which requests should be sent, but requires them to post that address in each branch office in an MSA. The Board believes that this approach will best satisfy the amendment's goals of reducing compliance burden while preserving the prompt public availability of the data. The Board has revised § 203.5 and Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register accordingly.

Because the requirements for public disclosure of the disclosure statement differ from the requirements for the modified loan application register, the Board has also reorganized several paragraphs in Appendix A, Section III. Submission of HMDA–LAR and Public Release of Data to clarify the requirements. A cross reference in Supplement I—Staff Commentary has been revised accordingly. As part of this reorganization, the Board has clarified some requirements that may have been ambiguous. For example, the revised section makes clear that an institution need not prepare a modified loan application register in advance of receiving a request for it.

C. Revisions to the HMDA Loan/ Application Register

The Board proposed to make three minor revisions to the HMDA loan/ application register, and has adopted the changes generally as proposed. First, the Board deleted the requirement to list the name and address of the respondent's supervisory agency. Because respondents must report the agency code, this additional requirement was unnecessary. Second, to facilitate prompt communication, the Board added a blank for the respondent's facsimile number. Third, the Board added a notice required under the Paperwork Reduction Act, but shifted the location of that notice from the transmittal form to the Paperwork Reduction Act Notice section of the Instructions for Completion of the HMDA Loan/Application Register.

III. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604), the Board's Office of the Secretary has reviewed the amendments to Regulation C. Overall, the amendments reduce the burden on small entities. The regulatory revisions implement the 1996 Act which, in part, increases the exemption threshold for depository institutions. The 1996 Act also creates an alternative means for making branch disclosures available. The Board certifies that the regulatory revisions will not have an adverse effect on a substantial number of small entities.

IV. Paperwork Reduction Act

A. Paperwork Burden

The revisions to the information collection requirements are found in 12 CFR 203.3, 203.5, and Appendix A to Part 203 and implement the data collection and reporting requirements established by the Home Mortgage Disclosure Act. The respondents are mortgage lenders in metropolitan areas. Under the act, each respondent must make its loan/application register available to the public for three years; and must provide for five years the disclosure statement that the Federal Financial Institutions Examination Council prepares from the data submitted by the respondent. The data provide the public and government officials with information to enable them to determine whether mortgage lenders are fulfilling the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments.

The amendments decrease the number of respondents and ease compliance with the public disclosure requirements of the regulation. The amendments directly affect small businesses: many are no longer required to collect, report, or disclose the information.

Regulation C applies to all types of financial institutions and other mortgage-lending institutions that meet the coverage tests. Under the Paperwork Reduction Act, however, the Board accounts for the paperwork burden associated with Regulation C only for state member banks, their subsidiaries, subsidiaries of bank holding companies, and other entities regulated by the Federal Reserve. Any estimates of paperwork burden for other respondents are provided by the federal agency or agencies that supervise them.

The Board estimates that the effect of the amendments on the burden per response is negligible. The estimated burden per response varies from 10 to 10,000 hours, depending on individual circumstances, with estimated averages of 202 hours for state member banks and 160 hours for mortgage banking subsidiaries.

It is estimated that of the 565 state member banks that were covered in 1996 because their assets exceeded the $10 million threshold, 39 will be exempt as a result of the higher threshold. The 93 mortgage banking subsidiaries reporting HMDA data to the Federal Reserve remain covered. The total amount of annual burden is estimated to decrease from 129,168 hours to 121,368 because of these exemptions. The Board estimates that there would be no capital or start-up cost associated with these amendments, and that there is no annual cost burden beyond the estimated burden hours.

The Board did not receive any comments specifically addressing the burden estimate.

B. OMB Control Number

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The Federal Reserve's OMB control number applicable to the HMDA–LAR data collection is 7100–0247.

C. Confidentiality

The Board has previously determined that the HMDA loan/application register is required by law (12 U.S.C. 2801–2810; 12 CFR Part 203) and completion of the register, submission to the appropriate federal supervisory agency, and disclosure to the public on request are mandatory. The data, as modified according to Appendix A of the regulation (paragraph III.E.), are made publicly available and are not considered confidential. Information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)).

D. Extension of Authority

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed Regulation C under the authority delegated to the Board by the Office of Management and Budget. The Board is extending the authority to collect the HMDA loan/application register for three years through May 31, 2000.

E. Request for Comments

The Board has a continuing interest in the public's opinions of Federal Reserve collections of information. Comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent at any time to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0247), Washington, DC 20503.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. Section 203.3 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 203.3 Exempt institutions.

(a) *Exemption based on location, asset size, or number of home purchase loans.*

(1) * * *

(ii) The institution's total assets were at or below the asset threshold established by the Board. For data collection in 1997, the asset threshold is $28 million as of December 31, 1996. For subsequent years, the Board will adjust the threshold based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million. The Board will publish any adjustment in the asset figure in December.

* * * * *

3. Section 203.5 is amended as follows:

a. Paragraph (b) is revised;

b. Under paragraph (c), the last sentence is revised; and

c. Paragraph (e) is revised.

The revisions and additions read as follows:

§ 203.5 Disclosure and reporting.

* * * * *

(b) *Public disclosure of statement.* (1) A financial institution shall make its mortgage loan disclosure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public at its home office no later than three business days after receiving it from the Examination Council.

(2) In addition, a financial institution shall either:

(i) Make its disclosure statement available to the public (within ten business days of receiving it) in at least one branch office in each additional MSA where the institution has offices (the disclosure statement need only contain data relating to the MSA where the branch is located); or

(ii) Post the address for sending written requests for the disclosure statement in the lobby of each branch office in an MSA where the institution has offices, and mail or deliver a copy of the disclosure statement, within fifteen calendar days of receiving a written request (the disclosure statement need only contain data relating to the MSA for which the request is made). Including the address in the general notice required under paragraph (e) of this section satisfies this requirement.

(c) *Public disclosure of loan application register.* * * * The modified register need only contain data relating to the MSA for which the request is made.

* * * * *

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA. It shall promptly upon request provide the location of the institution's offices where the statement is available for inspection and copying, or it may include the location in the notice.

4. In Appendix A to Part 203 under the heading *Paperwork Reduction Act Notice*, the undesignated paragraph is revised to read as follows:

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

Paperwork Reduction Act Notice

Public reporting burden for collection of this information is estimated to vary from 10 to 10,000 hours per response, with an average of 202 hours per response for state member banks and 160 hours per response for mortgage banking subsidiaries, including time to gather and maintain the data needed and to review instructions and complete the information collection. This report is required by law (12 U.S.C. 2801–2810 and 12 CFR part 203). An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control number for this information collection is 7100–0247. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

* * * * *

5. Paragraph I of Appendix A to Part 203 is amended as follows:

a. Paragraph A. is amended by redesignating the introductory text, paragraph 1., and paragraph 2., as paragraph 1., paragraph 1.a., and paragraph 1.b., respectively;

b. Newly designated paragraph 1.a. is revised;

c. A new paragraph 2. is added; and

d. The undesignated paragraph EXAMPLE, is designated as paragraph 3. and revised.

The addition and revisions read as follows:

* * * * *

I. Who Must File a Report

A. Depository Institutions

1. * * *

a. Had assets of more than the asset threshold for coverage as published by the Board each year in December, and

b. * * *

2. For data collection in 1997, the asset threshold is $28 million in total assets as of December 31, 1996.

3. *Example.* If on December 31 you had a home or branch office in an MSA and your assets exceeded the asset threshold, you must complete a register that lists the home-purchase and home-improvement loans that you originate or purchase (and also lists applications that did not result in an origination) beginning January 1.

* * * * *

6. Paragraph III. of Appendix A to Part 203 is amended as follows:

a. Paragraph D. is revised;

b. Under paragraph E., paragraph 2. is revised and a new paragraph 3. is added;

c. Paragraph F. is removed; and

d. Paragraph G. is redesignated as paragraph F., and in newly redesignated paragraph F, the first paragraph following the heading is designated as paragraph 1. and a new heading is added to the newly designated paragraph 1., and paragraph 2. is added after the Home Mortgage Disclosure Act Notice.

The revisions and additions read as follows:

* * * * *

III. Submission of HMDA–LAR and Public Release of Data

* * * * *

D. *Availability of disclosure statement.* 1. The Federal Financial Institutions Examination Council (FFIEC) will prepare a disclosure statement from the data you submit. Your disclosure statement will be returned to the name and address indicated on the transmittal sheet. Within three business days of receiving the disclosure statement, you must make a copy available at your home office for inspection by the public. For these purposes a business day is any calendar day other than a Saturday, Sunday, or legal public holiday. You also must either:

a. Make your disclosure statement available to the public, within ten business days of receiving it from the FFIEC, in at least one branch office in each additional MSA where you have offices (the disclosure statement need only contain data relating to properties in the MSA where the branch office is located); or

b. Post in the lobby of each branch office in an MSA the address where a written request for the disclosure statement may be sent, and mail or deliver a copy of the statement to any person requesting it, within fifteen calendar days of receiving a written request. The disclosure statement need only contain data relating to the MSA for which the request is made.

2. You may make the disclosure statement available in paper form or, if the person requesting the data agrees, in automated form (such as by PC diskette or computer tape).

E. *Availability of modified loan application register.*

* * * * *

2. You may make the modified register available in paper or automated form (such as by PC diskette or computer tape). Although you are not required to make the modified loan application register available in census-tract order, you are strongly encouraged to do so in order to enhance its utility to users.

3. You must make your modified register available following the calendar year for which the data are complied, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. You are not required to prepare a modified loan application register in advance of receiving a request from the public for this information, but must be able to respond to a request within 30 days. A modified register need only reflect data relating to the MSA for which the request is made.

F. *Posters.*

1. *Suggested language.* * * *

2. *Additional language for institutions making the disclosure statement available upon request.* For an institution that makes its disclosure statement available upon request instead of at branch offices must post a notice informing the public of the address to which a request should be sent. For example, the institution could include the following sentence in its general notice: ''To receive a copy of these data send a written request to [address].''

* * * * *

7. In Appendix A to part 203, the LOAN/APPLICATION REGISTER Transmittal Sheet is revised to read as follows:

* * * * *

BILLING CODE 6210–01–P

LOAN/APPLICATION REGISTER

Form FR HMDA-LAR.
OMB No. 7100-0247. Approval expires May 31, 2000.

TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
_____	_	__ - _____	_____

The Loan/Application Register that is attached covers activity during the year _____ and contains a total of ___ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

_____
Name of Institution

_____
Address

_____
City, State, ZIP

Enter the name, telephone number, and facsimile number of a person who may be contacted about questions regarding your register:

Name (applicable)	Telephone Number	Facsimile Number (if
_____	(___) _____	(___)_____

If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

_____
Name

_____
Address

_____
City, State, ZIP

An officer of your institution must complete the following section.

I certify to the accuracy of the data contained in this register.

Name of Officer	Signature	Date
_____	_____	_____

BILLING CODE 6210–01–C

* * * * *

8. Supplement I to Part 203 is amended as follows:

a. Under Section 203.3—Exempt Institutions, under 3(a) *Exemption based on location, asset size, or number of home-purchase loans,* the second sentence of Paragraph 1. *General* is revised; and

b. Under Section 203.5—Disclosure and Reporting, under 5(e) *Notice of availability,* the parenthetical at the end of Paragraph 1. *Poster—suggested text* is revised.

The revisions read as follows:

Supplement I to Part 203—Staff Commentary

* * * * *

Section 203.3—Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

1. *General.* * * * For example, a bank whose assets are at or below the threshold on December 31 of a given year reports data for that full calendar year, in which it was covered, but does not report data for the succeeding calendar year. * * *

* * * * *

Section 203.5—Disclosure and Reporting

5(e) *Notice of availability.*

1. *Poster—suggested text.* * * * (Appendix A of this part, paragraph III.F.)

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 19, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–13593 Filed 5–23–97; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–10; Amendment 39–10035; AD 97–11–06]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4164 and PW4168 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney PW4164 and PW4168 series turbofan engines. This action requires initial and repetitive visual inspections of the fan blades for surface damage and cracks, initial and repetitive lubrication of the fan blade part span shrouds, a one time ultrasonic inspection (UI) of the fan blade root attachment area for cracks, and a one time fan blade root attachment front corner radii inspection for proper dimension. Also, this AD requires visual inspection of the fan blades and removal of fan blades damaged by a bird strike as well as removal of blades immediately adjacent to damaged blades. In addition, this AD requires installation of an improved fan blade assembly as terminating action to the inspection requirements of this AD. This amendment is prompted by a report of a high N1 rotor imbalance and liberation of the fan containment system causing loss of structural support of the engine inlet cowl, following loss of a fan blade during a test. The actions specified in this AD are intended to prevent fan blade failure and separation at the root section, which could result in high N1 rotor imbalance, and liberation of the fan containment system, which can hazard the aircraft.

DATES: Effective June 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 11, 1997.

Comments for inclusion in the Rules Docket must be received on or before July 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–10, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503; or Airbus Industrie, Customer Services Directorate, Technical Documentation Services, 31707 Blagnac Cedex, France. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7147, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received a report of a high level of N1 rotor imbalance on a Pratt & Whitney (PW) PW4164/PW4168 series turbofan engine during a fan blade out test. The high N1 rotor imbalance resulted from the loss of several fan blades after fan blade, Part Number (P/N) 55A221, was intentionally released for test purposes. This high imbalance of the N1 rotor also caused liberation of the fan blade containment system and loss of structural support to the engine inlet cowl. In revenue service, failure of the fan blade near the root attachment could be caused by metal fatigue. This condition, if not corrected, could result in fan blade failure and separation at the root section, which could result in high N1 rotor imbalance, and liberation of the fan containment system, which can hazard the aircraft.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) No. PW4G–100–72–69, dated August 6, 1996, that describes procedures for visual inspections of fan blades for cracks and surface damage, and lubrication of fan blade shrouds; PW SB No. PW4G–100–72–81, dated December 18, 1996, that describes procedures for ultrasonic inspection (UI) of the fan blade root attachment area for cracks and fan blade root attachment front corner radii for proper dimension; and PW SB No. PW4G–100–72–92, dated April 24, 1997, that provides a new or a modified fan blade assembly design.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent fan blade failure and separation at the root section. This AD requires initial and repetitive visual inspections of the fan blades for surface damage and cracks, initial and repetitive lubrication of the fan blade shrouds, a one-time UI of the fan blade root attachment area for cracks, and a one-time fan blade root attachment front corner radii inspection for proper dimension. Fan blades that do not meet the return to service criteria specified in the applicable SBs must be replaced with serviceable parts. Also, this AD would require visual inspection of the fan blades and removal of damaged blades as well as removal of blades immediately adjacent to damaged blades following a bird strike. Additionally, this AD would require incorporation of a new or modified fan blade assembly prior to December 31, 1998. The actions are required to be

accomplished in accordance with the SBs described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–ANE–10.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–11–06 Pratt & Whitney: Amendment 39–10035. Docket 97–ANE–10.

Applicability: Pratt & Whitney (PW) PW4164 and PW4168 series turbofan engines, installed on but not limited to Airbus Industrie A330 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fan blade failure and separation at the root section, which could result in high N1 rotor imbalance, and liberation of the fan containment system, which can hazard the aircraft, accomplish the following:

(a) Perform visual inspections of fan blades, Part Number (P/N) 55A221, for surface damage and cracks, and lubricate the fan blade shrouds, in accordance with the Accomplishment Instructions of PW SB No. PW4G–100–72–69, dated August 6, 1996, as follows:

(1) At the next ''A'' check inspection, not to exceed 500 hours time in service (TIS) after the effective date of this AD, whichever occurs first, perform the initial inspection of the fan blades and lubricate the fan blade shrouds.

(2) Thereafter, at each ''A'' check inspection, but not to exceed 500 hours TIS since last inspection and lubrication, whichever occurs first, inspect the fan blades and lubricate the fan blade shrouds.

(3) Prior to further flight, remove from service fan blades that do not meet the return to service criteria stated in the SB, and replace with serviceable parts.

(b) Perform an ultrasonic inspection (UI) of the fan blade root attachment area of fan blades, P/N 55A221, for cracks and perform a radius dimension inspection in accordance with Attachments 1 and 2 of PW SB No. PW4G–100–72–81, dated December 18, 1996, as follows:

(1) Prior to accumulating 2,500 total part cycles (TPC), or within 250 part cycles after the effective date of this AD, whichever occurs later.

(2) Prior to further flight, remove from service fan blades that do not meet the return to service criteria stated in the SB, and replace with serviceable parts.

(c) Following a bird strike, prior to further flight remove from service undamaged fan blades immediately adjacent on both sides to any fan blades exhibiting bird ingestion damage in addition to the damaged fan blades, in accordance with Airbus A330 Aircraft Maintenance Manual, Section 72–00–00, Subtask 72–00–00–210–093, Paragraph (A)(1), dated October 1, 1996, and replace with serviceable parts.

(d) Install a new or a modified fan blade assembly, in accordance with the requirements of PW SB No. PW4G–100–72–92, dated April 24, 1997, prior to December 31, 1998. Installation of a new of modified fan blade assembly, in accordance with PW SB No. PW4G–100–72–92, dated April 24, 1997, constitutes terminating action to the inspection requirements of paragraphs (a), (b), and (c) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the

Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The actions required by this AD shall be done in accordance with the following PW SBs:

Document No.	Pages	Date
PW4G–100–72–69.	1–10	Aug. 6, 1996.
Total pages: 10.		
PW4G–100–72–81.	1–8	Dec. 18, 1996.
NDIP–883	1–27	Dec. 11, 1996.
NDIP–893	1–9	Dec. 11, 1996.
Total pages: 44.		
PW4G–100–72–92.	1–24	Apr. 24, 1997.
Total pages: 24.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on June 11, 1997.

Issued in Burlington, Massachusetts, on May 15, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–13464 Filed 5–22–97; 9:57 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Office of the Commissioner

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority by adding a new authority from the Assistant Secretary for Health to the Commissioner of Food and Drugs (the Commissioner) for all the authorities delegated to the Assistant Secretary for Health under the Safe Medical Devices Act of 1990 (the SMDA), as amended. The delegation excludes the authority to submit reports to Congress.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Loretta W. Davis, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4809.

SUPPLEMENTARY INFORMATION: On February 10, 1994, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all of the authorities vested in the Secretary under the SMDA (Pub. L. 101–629), as amended, including any section not amending the Food, Drug, and Cosmetic Act. On February 23, 1994, the Assistant Secretary for Health delegated to the Commissioner all the authorities delegated to the Assistant Secretary for Health under the SMDA, as amended.

FDA is amending 21 CFR 5.10 by adding a new paragraph (a)(38) to reflect the new authority.

Further redelegation of the authority delegated may only be authorized with the Commissioner's approval. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.10 is amended by adding new paragraph (a)(38) to read as follows:

§ 5.10 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials.

(a) * * *

(38) Functions vested in the Secretary under the Safe Medical Devices Act of 1990 (Pub. L. 101–629), as amended. The delegation excludes the authority to submit reports to Congress.

* * * * *

Dated: May 15, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–13826 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Milbemycin Oxime/Lufenuron Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Novartis Animal Health US, Inc. The NADA provides for use of milbemycin oxime/lufenuron tablets for prevention of heartworm disease caused by *Dirofilaria immitis*, control of adult *Ancylostoma caninum*, the removal and control of adult *Toxocara canis*, *Toxascaris leonina*, and *Trichuris vulpis* infections, and the prevention and control of flea populations in dogs.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Novartis Animal Health US, Inc., P.O. Box 18300, Greensboro, NC 27419–8300, filed NADA 141–084, which provides for oral administration of SENTINEL™ (milbemycin oxime/lufenuron) tablets containing 2.3 milligrams (mg) milbemycin oxime/46 mg lufenuron, 5.75 mg/115 mg, 11.5 mg/230 mg, or 23 mg/460 mg per tablet. SENTINEL™ tablets are administered once a month to dogs, 4 weeks of age and older and 2 pounds body weight or greater, for the prevention of heartworm disease caused by *D. immitis*, for the prevention and

control of flea populations, the control of adult *A. caninum* (hookworm), and the removal and control of adult *T. canis* and *T. leonina* (roundworm), and *T. vulpis* (whipworm) infections. The NADA is approved as of April 10, 1997, and the regulations are amended in part 520 (21 CFR part 520) by adding new § 520.1446 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for a 3-year period of exclusivity beginning April 10, 1997, because the application contains substantial evidence of the effectiveness of the drugs involved, and studies of animal safety, required for approval of the application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1446 is added to read as follows:

§ 520.1446 Milbemcyin oxime/lufenuron tablets.

(a) *Specifications*. Tablets containing: 2.3 milligrams milbemycin oxime/46 milligrams lufenuron, 5.75 milligrams/115 milligrams, 11.5 milligrams/230 milligrams, and 23 milligrams/460 milligrams.

(b) *Sponsor*. See No. 058198 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount*. 0.5 milligrams of milbemycin and 10 milligrams of lufenuron per kilogram of body weight.

(2) *Indications for use*. For use in dogs, 4 weeks of age and older and 2 pounds body weight or greater, for the prevention of heartworm disease caused by *Dirofilaria immitis*, for the prevention and control of flea populations, the control of adult *Ancylostoma caninum* (hookworm), and the removal and control of adult *Toxocara canis, Toxascaris leonina* (roundworm), and *Trichuris vulpis* (whipworm) infections.

(3) *Limitations*. Administer tablet(s) once a month, preferably on same date each time. All dogs in a household should be treated to achieve maximum efficacy. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: May 6, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–13823 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Inc. The ANADA provides for the use of trenbolone acetate and estradiol implants for increased rate of weight gain and improved feed efficiency in feedlot steers.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Inc., 8857 Bond St., Overland Park, KS 66214, has filed ANADA 200–221, which provides for the use of trenbolone acetate and estradiol implants for increased rate of weight gain and improved feed efficiency in feedlot steers.

The ANADA is approved as a generic copy of Roussel UCLAF's Revalor® S, NADA 140–897. ANADA 200–221 is approved as of March 20, 1997, and the regulations are amended in 21 CFR 522.2477 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.2477 is amended by revising paragraph (a) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

(a) *Sponsor*. See No. 012579 in § 510.600(c) of this chapter for use as in paragraphs (c)(1), (c)(2), and (c)(3) of this section. See No. 021641 in § 510.600(c) of this chapter for use as in paragraph (c)(1) of this section.

* * * * *

Dated: May 6, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–13820 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Schering-Plough Animal Health Corp. to Walco International, Inc.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., P.O. Box 529, Kenilworth, NJ 07033, has informed FDA that it has transferred ownership of, and all rights and interests in, approved NADA 031–971 (cupric glycinate injection) to Walco International, Inc., 15 West Putnam, Porterville, CA 93257. Accordingly, the agency is amending the regulations in 21 CFR 522.518 to reflect the change of sponsor.

List of Subjects in 21 CFR 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.518 [Amended]

2. Section 522.518 *Cupric glycinate injection* is amended in paragraph (b) by removing ''000061'' and adding in its place ''No. 049185''.

Dated: May 6, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–13822 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc. The supplemental NADA provides for removal of the international feed number (IFN) for an ingredient in free-choice, lasalocid, liquid Type C feed.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199, filed supplemental NADA 96–298, which provides for removing the IFN for the condensed molasses fermentation solubles ingredient of the free-choice, lasalocid, liquid Type C feed. The molasses solubles described by the IFN refer to those solubles from sugar cane molasses. The liquid Type C feed contains beet molasses solubles that do not have an IFN.

The supplemental NADA is approved as of May 27, 1997, and the regulations are amended in 21 CFR 558.311(e)(3)(i) to reflect the approval.

This action does not affect the safety and effectiveness upon which the application was approved. Therefore, a freedom of information summary is not required

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.311 [Amended]

2. Section 558.311 *Lasalocid* is amended in the table in paragraph (e)(3)(i), in the entry for ''Condensed Molasses Fermentation Solubles'', in the third column by removing ''5–25–399'' and adding in its place ''N/A''.

Dated: May 7, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–13825 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 601

[TD 8719]

RIN 1545–AU41 and 1545–AV19

Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to the temporary regulations (TD 8719) which were published in the **Federal Register** for Thursday, May 15, 1997 (62 FR 26740). The regulations relate to the procedure for requesting a change in accounting method and the standards for granting an extension of time to request a change in accounting method. The regulations provide for a longer period of time for filing an application for change in accounting method with the Commissioner.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Oseekey at (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction are under section 446 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations contain two errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations which are the subject of FR Doc. 97–12514 is corrected as follows:

§ 1.446–1T [Corrected]

Paragraph 1. On page 26741, column 1, in § 1.446–1T, paragraph (e)(3)(i)(B) is corrected to read as follows:

* * * * *

(e) * * *

(3) * * *

(i) * * *

(B) For any form 3115 filed on or after May 15, 1997, to secure the Commissioner's consent to a taxpayer's change in method of accounting the taxpayer must file the Form 3115 with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting.

* * * * *

§ 601.204T [Corrected]

Par. 2. On page 26741, column 2, in § 601.204T, paragraph (b)(2) is corrected by removing the last sentence.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 97–13815 Filed 5–23–97; 8:45 am]

BILLING CODE 4830–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4003, 4007, 4011, 4041, 4041A, 4043, and 4050

Disaster Relief in Response to Severe Weather and Flooding in the Upper Midwest

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of disaster relief; waiver of certain penalties and extension of certain deadlines.

SUMMARY: The Pension Benefit Guaranty Corporation is waiving certain penalties and extending certain deadlines in response to the major disasters declared by the President of the United States on account of severe weather and flooding in the Upper Midwest.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1001 *et seq.*). Under ERISA and the PBGC's regulations, a number of deadlines must be met in order to avoid the imposition of penalties or other consequences.

In April 1997, the President of the United States issued declarations, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*), that major disasters exist because of recent severe weather and flooding in the Upper Midwest. When this document was prepared, the following counties had been designated by the Federal Emergency Management Agency (pursuant to 44 CFR 206.40(b)) as areas affected by these disasters:

- In the state of South Dakota: all counties;
- In the state of North Dakota: all counties;
- In the state of Minnesota: Aitkin, Anoka, Becker, Beltrami, Benton, Big Stone, Blue Earth, Brown, Carver, Cass, Chippewa, Clay, Clearwater, Dakota, Douglas, Goodhue, Grant, Hennepin, Houston, Hubbard, Kandiyohi, Kittson, Lac Qui Parle, Lake of the Woods, Le Sueur, Lincoln, Lion, Mahnomen, Marshall, McLeod, Morrison, Nicollet, Norman, Otter Tail, Pennington, Polk, Pope, Ramsey, Red Lake, Redwood, Renville, Roseau, Scott, Sherburne, Sibley, Stearns, Stevens, St. Louis, Swift, Todd, Traverse, Wabasha, Wadena, Washington, Wilkin, Winona, Wright, and Yellow Medicine.

The PBGC is providing relief from certain deadlines and penalties. In general, this relief is applicable with respect to plans for which the administrator's or sponsor's principal place of business, or the office of a service provider, bank, insurance company, or other person maintaining information necessary to meet the applicable deadlines, is located in an area that has been or is hereafter designated a major disaster area on account of severe weather and flooding in the Upper Midwest occurring on or after April 15 and before June 30, 1997 (a ''designated disaster area''). However, the extension (discussed below) for filing requests for reconsideration or appeals is applicable to any aggrieved person who is residing in, or whose principal place of business is within, a designated disaster area, or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within such an area.

Premiums

The PBGC will waive the late payment penalty charge with respect to any premium payment required to be made on or after April 15, 1997, and before June 30, 1997, if the payment is made by June 30, 1997. The PBGC is not permitted by law to waive late payment interest charges. (ERISA section 4007(b); 29 CFR 4007.7 and 4007.8(b)(3).)

Section 4071 Penalties

For any of the following notices that is required to be filed with the PBGC on or after April 15, 1997, and before June 30, 1997, in order to avoid the assessment of section 4071 penalties, the PBGC will not assess a section 4071 penalty if the notice is filed by June 30, 1997:

(1) Post-distribution certification for single-employer plans (PBGC Form 501 or 602; ERISA section 4041 (b)(3)(B) or (c)(3)(B); 29 CFR 4041.27(h) or 4041.48(b)),

(2) Notice of termination for multiemployer plans (ERISA section 4041A; 29 CFR 4041A.11),

(3) Notice of plan amendments increasing benefits by more than $10 million (ERISA section 307(e)),

(4) Missing participants information for single-employer plans (Schedule MP (including Attachments A and B) to PBGC Forms 501 and 602; ERISA section 4050; 29 CFR 4050.6), and

(5) Premium declarations (PBGC Forms 1 (including Schedule A) and 1–ES; ERISA section 4007; 29 CFR 4007.3).

The PBGC will not assess a section 4071 penalty for a failure to provide certain supporting information and documentation when a notice of failure to make required contributions totaling more than $1 million (including interest) is timely filed, if the timely filed notice includes at least items 1 through 7 and items 11 and 12 of Form 200; the responses to items 8 through 10, with the certifications in items 11 and 12, may be filed late (PBGC Form 200; ERISA section 302(f)(4); 29 CFR 4043.81). This relief applies to notices required to be filed with the PBGC on or after April 15, 1997, and before June 30, 1997, provided that all supporting information and documentation are filed by June 30, 1997.

The PBGC is not automatically forgoing assessment of penalties under section 4071 for failure to comply with

other information submission requirements, but relief may be granted in individual cases. For example, 29 CFR 4010.11 provides for waivers and extensions for financial and actuarial information reporting under 29 CFR Part 4010.

Reportable Events Notices

With respect to a reportable event for which a post-event notice is required to be filed under subpart B of the PBGC's regulation on Reportable Events (29 CFR 4043.20 through 4043.35) on or after April 15, 1997, and before June 30, 1997, the PBGC is (pursuant to 29 CFR 4043.4(d)) extending to June 30, 1997, the time within which to provide certain supporting information and documentation when a notice of the reportable event is timely filed, if the timely filed notice includes at least the information specified on the front of PBGC Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b) (1) through (5); the extension applies to the information specified on the back of Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b) (6) through (8) and in paragraph (b) of the regulation section that describes the event.

The PBGC is not providing automatic extensions for advance notices of reportable events described in subpart C of the Reportable Events regulation (29 CFR 4043.61 through 4043.68), but waivers and extensions for such notices may be granted individually pursuant to 29 CFR 4043.4(d).

Standard and Distress Termination Notices and Distribution of Assets

With respect to a standard termination for which the standard termination notice is required to be filed, or the distribution of plan assets is required to be completed, on or after April 15, 1997, and before June 30, 1997, the PBGC is (pursuant to 29 CFR 4041.8) extending to June 30, 1997, the time within which the standard termination notice must be filed (and, thus, the time within which notices of plan benefits must be provided) and the time within which the distribution of plan assets must be completed.

With respect to a distress termination for which the distress termination notice is required to be filed on or after April 15, 1997, and before June 30, 1997, the PBGC is (pursuant to 29 CFR 4041.8) extending to June 30, 1997, the time within which the termination notice must be filed. With respect to a distress termination for which notices of benefit distribution must be provided or plan assets must be distributed on or after April 15, 1997, and before June 30, 1997, as a result of the PBGC's issuance of a distribution notice, the PBGC is (pursuant to 29 CFR 4041.8 and 4041.43(d)) extending to June 30, 1997, the time within which such actions must be taken. In addition, as noted above, the PBGC is providing relief from penalties for late filing of the post-distribution certification.

Participant Notices

For Participant Notices that are required to be issued on or after April 15, 1997, and before June 30, 1997, the PBGC is (pursuant to 29 CFR 4011.8) extending the due date to June 30, 1997.

Requests for Reconsideration or Appeals

For persons who are aggrieved by certain agency determinations and for whom a request for reconsideration or an appeal is required to be filed on or after April 15, 1997, and before June 30, 1997, the PBGC is (pursuant to 29 CFR 4003.4(b)) extending the time for filing to June 30, 1997.

Applying for Waivers/Extensions

A submission to the PBGC to which a waiver or an extension is applicable under this notice should be marked in bold print ''FLOODS 5/97, [name of county], [name of state]'' at the top center.

Issued in Washington, D.C., this 21st day of May, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–13844 Filed 5–21–97; 4:05 pm]

BILLING CODE 7708–01–P

POSTAL SERVICE

39 CFR Part 20

International Mail Special Services

AGENCY: Postal Service.

ACTION: Final rule.

The Postal Service is modifying the fees for international mail, special delivery (Express/Exprès) and recorded delivery, and is changing the insurance limits for international insured mail and Express Mail. These changes are a consequence of the Governors of the Postal Service to approve the recommended decision of the PRC in docket number MC96–3.

EFFECTIVE DATE: 12:01 a.m., June 8, 1997.

ADDRESSES: Written comments should be directed to the Manager, Pricing, Costing, and Classification, Room 370–IBU, International Business Unit, U.S. Postal Service, Washington, D.C. 20260–6500. Copies of all written comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, in the International Business Unit, 901 D Street S.W., 10th Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 314–7256.

SUPPLEMENTARY INFORMATION: On June 7, 1996, the Postal Service filed with the Postal Rate Commission a Special Services Reform case (MC96–3). The Postal Rate Commission issued its Opinion and Recommended Decision on April 2, 1997. This was adopted by the Postal Service Board of Governors on May 5, 1997.

While the Postal Rate Commission does not recommend international postage rates and special mail service fees, domestic fees impact the level of fees and conditions of service for international special mail services. In general, the Universal Postal Convention (Convention) and the Postal Parcels Agreement (PPA) fix the maximum fees for special mail services but allow higher fees based on the fees for comparable domestic services. Likewise, the Convention and PPA allow a maximum limit of liability but allow lower limits based on the limit of liability. In view of the changes for domestic special services, as a result of the decision in Docket MC96–3, it is necessary to make changes for international special services.

Accordingly, the Postal Service adopts the following changes in the conditions of service and fees for international special services:

1. Insured Mail: The limit of indemnity is raised to $5000 unless the destination country's insurance limit is less. In this case the lower limit will apply. Table 1 lists limits available to all countries offering insured parcel post service. The fees are:

Limit of indemnity	Fee	
	Canada	All other countries
$50	$0.75	$1.60.
$100	$1.60	$2.50.
over $100 to $5000.	$1.60 plus $0.90 for each additional $100 or fraction thereof.	$2.50 plus $0.90 for each additional $100 or fraction thereof.

2. International Express Mail: The limit of indemnity for merchandise insurance is increased from $500 to $5000. The first $500 of merchandise is without charge above the postage. For merchandise insurance coverage over

$500 and up to and including $5000 is $0.90 for each additional $100 or fraction of $100 of merchandise insurance coverage requested. The maximum merchandise insurance is $5000.

Document reconstruction insurance included with international Express Mail Service is reduced from $50,000 to $500.

3. Special Delivery: The Postal Service fee for international special delivery (Express/Exprés) is changed to $2.35 for letters/letter packages, post and postal cards, printed matter, matter for the blind, and small packets, regardless of weight.

4. Recorded Delivery: The fee for recorded delivery service is increased to $1.35.

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment on this final rule.

The Postal Service is adopting the above fees and amends the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, incorporation by reference, international postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408.

2. The International Mail Manual is amended to incorporate the above special mail service fees.

TABLE 1

Country	Insurance indemnity limit
Afghanistan	N/A.
Albania	N/A.
Algeria	$2370.
Andorra	$600.
Angola	N/A.
Anguilla	$450.
Antigua & Barbuda	$60.
Argentina	$5000.
Armenia	$1465.
Aruba	$600.
Ascension	$185 (surface only).
Australia	$3660.
Austria	$5000.
Azerbaijan	$5000.
Azores	$5000.
Bahamas	$3035 (Nassau/Freeport); $605 (other locations).
Bahrain	N/A.

TABLE 1—Continued

Country	Insurance indemnity limit
Bangladesh	$5000.
Barbados	$240.
Belarus	$5000.
Belgium	$5000.
Belize	$1740.
Benin	$185.
Bermuda	$480.
Bhutan	$480.
Bolivia	N/A.
Bosnia/Herzegovina	$600.
Botswana	$160.
Brazil	$5000 (air only).
British Virgin Islands	$180.
Brunei Darussalam	$4780.
Bulgaria	$1025.
Burkina Faso	$580.
Burma (Myanmar)	$4390 (air parcels to Rangoon only).
Burundi	$855 (air only).
Cambodia	N/A.
Cameroon	$5000.
Canada	$730.
Cape Verde	$480.
Cayman Islands	N/A.
Central African Republic.	$4780.
Chad	$480 (air only).
Chile	N/A.
China	$1225.
Colombia	N/A.
Comoros	$750.
Congo	$1830.
Corsica	$5000.
Costa Rica	N/A.
Cote d' Ivoire	$5000.
Croatia	$5000.
Cuba	N/A.
Cyprus	$5000.
Czech Republic	$5000.
Denmark	$5000.
Djibouti	$955.
Dominica	N/A.
Dominican Republic	N/A.
Ecuador	N/A.
Egypt	$1830.
El Salvador	N/A.
Equatorial Guinea	N/A.
Eritrea	N/A.
Estonia	$1465.
Ethiopia	N/A.
Falkland Islands	$555 (surface only).
Faroe Islands	$5000.
Fiji	$600.
Finland	$5000.
France	$5000.
French Guiana	$5000.
French Polynesia	$1080.
Gabon	$525.
Gambia	$2800.
Georgia	$730.
Germany	$5000.
Ghana	$5000.
Gibraltar	$95.
Great Britain & Northern Ireland.	$2195.
Greece	$5000.
Greenland	$5000.
Grenada	$380.
Guadeloupe	$5000.
Guatemala	N/A.
Guinea	$950.

TABLE 1—Continued

Country	Insurance indemnity limit
Guinea-Bissau	$21.
Guyana	$10.
Haiti	N/A.
Honduras	N/A.
Hong Kong	$5000.
Hungary	$5000 (surface); $4780 (air).
Iceland	$5000.
India	$3070.
Indonesia	N/A.
Iran	N/A.
Iraq	$575 (surface); $2390 (air).
Ireland	$1545.
Israel	N/A.
Italy	$2390.
Jamaica	N/A.
Japan	$5000.
Jordan	N/A.
Kazakhstan	$5000.
Kenya	$885.
Kiribati	N/A.
Korea (Democratic People's Republic of).	N/A.
Korea (Republic of)	$5000.
Kuwait	$1920.
Kyrgyzstan	$1465.
Laos	N/A.
Latvia	$1465.
Lebanon	$480 (air only).
Lesotho	$480.
Liberia	$480.
Libya	N/A.
Liechtenstein	$5000.
Lithuania	$5000.
Luxembourg	$5000.
Macao	$5000.
Macedonia (Republic of).	$2390.
Madagascar	$730.
Madeira Islands	$5000.
Malawi	$55.
Malaysia	$475.
Maldives	N/A.
Mali	$1030.
Malta	N/A.
Martinique	$5000.
Mauritania	$690.
Mauritius	$295.
Mexico	N/A.
Moldova	$1465.
Mongolia	$480.
Montserrat	$2390.
Morocco	$955.
Mozambique	N/A.
Namibia	$535.
Nauru	$240.
Nepal	N/A.
Netherlands	$4780.
Netherlands Antilles	$900.
New Caledonia	$1750.
New Zealand	$1065.
Nicaragua	$480.
Niger	$880.
Nigeria	$220.
Norway	$5000.
Oman	$620.
Pakistan	$295.
Panama	N/A.
Papua New Guinea	$485.

TABLE 1—Continued

Country	Insurance indemnity limit
Paraguay	N/A.
Peru	N/A.
Philippines	$295.
Pitcairn Island	N/A.
Poland	$1465.
Portugal	$5000.
Qatar	$2730.
Reunion	$5000.
Romania	$5000.
Russia	$5000.
Rwanda	N/A.
St. Christopher & Nevis.	$225.
St. Helena	$185.
St. Lucia	$435.
St. Pierre & Miquelon	$5000.
St. Vincent & The Grenadines.	$145.
San Marino (Republic of).	$2390.
Sao Tome & Principe	$480.
Saudi Arabia	N/A.
Senegal	$940.
Serbia-Montenegro	$5000.
Seychelles	N/A.
Sierra Leone	N/A.
Singapore	$4780.
Slovak Republic (Slovakia).	$5000.
Slovenia	$4780.
Solomon Islands	N/A.
Somalia	$480.
South Africa	$1915.
Spain	$480 (surface); $955 (air).
Sri Lanka	$40.
Sudan	N/A.
Suriname	$580.
Swaziland	$610.
Sweden	$5000.
Switzerland	$5000.
Syria	$3345.
Taiwan	$500.
Tajikistan	$410.
Tanzania	$250.
Thailand	$480.
Togo	$2380.
Tonga	$560.
Trinidad & Tobago	$1010.
Tristan Da Cunha	N/A.
Tunisia	$2390.
Turkey	$955.
Turkmenistan	$730.
Turks & Caicos Islands.	N/A.
Tuvalu	$5000 (surface); $730 (air).
Uganda	N/A.
Ukraine	$5000.
United Arab Emirates	$5000.
Uruguay	N/A.
Uzbekistan	$410.
Vanuatu	N/A.
Vatican City	$2390.
Venezuela	N/A.
Vietnam	N/A.
Wallis & Fortuna Islands.	$1755 (air only).
Western Samoa	$320.
Yemen	$600.
Zaire	N/A.

TABLE 1—Continued

Country	Insurance indemnity limit
Zambia	$585.
Zimbabwe	$600.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–13683 Filed 5–23–97; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH107–1a; KY94–9717a; FRL–5830–5]

Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: USEPA is extending the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. Accordingly, USEPA is revising the table in the Code of Federal Regulations concerning ozone attainment dates in this area. In this action, USEPA is approving the States' request through a ''direct final'' rulemaking; the rationale for this approval is set forth below. Elsewhere in this **Federal Register**, USEPA is proposing approval and soliciting comment on this action; if adverse comments are received, USEPA will withdraw the direct final rulemaking and address the comments received in a new final rule; otherwise no further rulemaking will occur on this attainment date extension request.

DATES: This rule becomes effective July 28, 1997 unless substantive adverse comments not previously addressed by the State or USEPA are received by June 26, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Joseph M. LeVasseur at the USEPA Region 4 address listed below or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5 at the address listed below. Copies of the material submitted by the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) may be examined during normal business hours at the following locations:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street S.W., Atlanta, Georgia 30303–3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Copies of the materials submitted by the Ohio Environmental Protection Agency (OEPA) may be examined during normal business hours at the following locations:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

OEPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano at (312) 886–6036 or Joseph M. LeVasseur at (404) 562–9035.

SUPPLEMENTARY INFORMATION:

Request for Attainment Date Extension for the Cincinnati-Hamilton Metropolitan Moderate Ozone Nonattainment Area

On November 7, 1996, OEPA requested a one-year attainment date extension for the Ohio portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties in Ohio. Similarly, on November 15, 1996 KNREPC requested a one-year attainment date extension for the Kentucky portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Kenton, Boone and Campbell Counties. Since this area was classified as a moderate ozone nonattainment area, the statutory ozone attainment date, as prescribed by section 181(a) of the Clean Air Act (CAA), is November 15, 1996. The submittals request that the attainment date be extended to November 15, 1997.

CAA Requirements and USEPA Actions Concerning Designation and Classification

Section 107(d)(4) of the CAA requires the States and USEPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) requires that ozone nonattainment areas be classified as marginal, moderate, serious, severe,

or extreme, depending on their air quality. In a series of **Federal Register** documents, USEPA completed this process by designating and classifying all areas of the country for ozone. See, e.g., 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the CAA. The Cincinnati-Hamilton ozone nonattainment area was designated nonattainment and classified moderate for ozone pursuant to 56 FR 58694 (Nov. 6, 1991). By this classification, its attainment date became November 15, 1996. A discussion of the attainment dates is found in 57 FR 13498 (April 16, 1992) (the General Preamble).

CAA Requirements and USEPA Actions Concerning Meeting the Attainment Date

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. For ozone, USEPA determines attainment status on the basis of the expected number of exceedances of the NAAQS over the most recent three-year period. See General Preamble, 57 FR 13506. In the case of moderate ozone nonattainment areas, the three-year period is 1994–1996. CAA section 181(b)(2)(A) further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified upward.

A review of the actual ambient air quality ozone data from the USEPA Aerometric Information Retrieval System (AIRS), shows that a number of air quality monitors located in the Cincinnati-Hamilton ozone nonattainment area recorded exceedances of the NAAQS for ozone during the three year period from 1994 to 1996. At one of these monitors, Warren County, OH, the number of expected exceedances was 2.0 per year, for 1994 and 1995. Because these exceedances averaged more than 1.0 over the three year period, they constitute a violation of the ozone NAAQS for the Cincinnati-Hamilton area during this three-year period. Thus, the area did not meet the November 15, 1996 attainment date.

However, CAA section 181(a)(5) provides an exemption from these bump up requirements. Under this exemption, USEPA may grant up to two, one-year extensions of the attainment date under specified conditions:

Upon application by any State, the Administrator may extend for one additional year (hereinafter referred to as the ''Extension Year'') the date specified in table 1 of paragraph (1) of this subsection if—

(A) The State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) No more than one exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than two one-year extensions may be issued for a single nonattainment area.

The USEPA interprets this provision to authorize the granting of a one-year extension under the following minimum conditions:

(1) The State requests a one-year extension,

(2) all requirements and commitments in the USEPA-approved SIP for the area have been complied with, and

(3) the area has no more than one measured exceedance of the NAAQS at each monitor in the area during the year that includes the attainment date (or the subsequent year, if a second one-year extension is requested).

TABLE 1.—EXCEEDANCES OF THE OZONE AIR QUALITY STANDARD IN THE CINCINNATI-HAMILTON AREA 1994 TO 1996

Site	County/state	Year	Exceedances measured	Expected exceedances
Oxford [1]	Butler, OH	1994	0	0.0
Middletown	Butler, OH	1994	0	0.0
Middletown	Butler, OH	1995	2	2.0
Middletown	Butler, OH	1996	1	1.0
Hamilton	Butler, OH	1994	0	0.0
Hamilton	Butler, OH	1995	1	1.0
Hamilton	Butler, OH	1996	0	0.0
4430 SR 222	Clermont, OH	1994	1	1.0
4430 SR 222	Clermont, OH	1995	1	1.0
4430 SR 222	Clermont, OH	1996	0	0.0
11590 Grooms Rd	Hamilton, OH	1994	0	0.0
11590 Grooms Rd	Hamilton, OH	1995	0	0.0
11590 Grooms Rd	Hamilton, OH	1996	0	0.0
6950 Ripple Road	Hamilton, OH	1994	0	0.0
6950 Ripple Road	Hamilton, OH	1995	1	1.0
6950 Ripple Road	Hamilton, OH	1996	0	0.0
Cincinnati	Hamilton, OH	1994	0	0.0
Cincinnati	Hamilton, OH	1995	1	1.0
Cincinnati	Hamilton, OH	1996	0	0.0
Lebanon	Warren, OH	1994	2	2.0
Lebanon	Warren, OH	1995	2	2.0
Lebanon	Warren, OH	1996	0	0.0
KY 338	Boone, KY	1994	0	0.0
KY 338	Boone, KY	1995	0	0.0
KY 338	Boone, KY	1996	0	0.0
Dayton	Campbell,KY	1994	0	0.0
Dayton	Campbell, KY	1995	0	0.0
Dayton	Campbell, KY	1996	1	1.0
Covington	Kenton, KY	1994	0	0.0
Covington	Kenton, KY	1995	1	1.0
Covington	Kenton, KY	1996	1	1.0

[1] This site was shutdown after 1994, so no data are available for 1995 and 1996.

In both extension requests Ohio and Kentucky indicated that they satisfied the attainment date extension criteria in as much as no monitors in the Cincinnati-Hamilton area monitored more than one exceedance each during 1996. The 1996 monitoring data has been quality controlled and quality assured, as has been the data for 1994 and 1995. These data are summarized in Table 1. An examination of the data indicates that three of the ten monitors recorded one exceedance each during 1996.

Both Ohio and Kentucky certified that they are implementing the ozone State Implementation Plans (SIPs) for the area. USEPA conducted a review of the ozone SIPs, as contained in 40 CFR part 52 and USEPA's electronic version of the SIP, and believes that the states are implementing the USEPA approved ozone SIPs. Additionally, USEPA has not made a finding of failure to implement the SIPs for the area. This supports the States' certification that the area is implementing its SIPs.

Ohio is implementing the requirements of the approved Ozone SIP. Regarding implementation of the vehicle inspection and maintenance (I/M) program, Ohio enacted legislation authorizing the I/M program and adopted regulations for the operation of the program. The USEPA approved the program on April 4, 1995 (See 60 FR 16989). The State of Ohio awarded a contract for program operations, and on January 2, 1996, Ohio began testing vehicles in the Cincinnati area. The enactment of legislation, adoption of regulations, and the capital investment in structures and equipment to perform testing meets the implementation test. While the Cincinnati program has been suspended due to program performance problems, Ohio is in compliance with CAA implementation requirements. The Ohio Stage II vapor recovery program is fully implemented in the Cincinnati area. The State is also collecting emissions statements from sources in the area. The State is implementing its SIP for conformity. Also, the area is implementing its approved SIP which includes a program for controlling volatile organic compound (VOC) emissions from stationary sources. This includes the Non-Control Technique Guideline Reasonably Available Control Technique requirements approved within the past several years for the following plants in the Ohio portion of the area: Steelcraft Manufacturing Co, Chevron USA Inc, International Paper Co, Morton Thiokol, Armco Steel Co, Formica Corp, PMC Specialties Group, Hilton Davis Co, Monsanto Co, and Proctor and Gamble.

Kentucky is implementing the requirements of its approved ozone SIP for the Cincinnati-Hamilton interstate area. The Kentucky portion of the area is implementing its program for controlling oxides of nitrogen (NOx) and VOC emissions from stationary sources.

USEPA has determined that the requirements for a one-year extension of the attainment date have been fulfilled as follows:

(1) Ohio and Kentucky have formally submitted the attainment date extension requests.

(2) Ohio and Kentucky are currently in the process of implementing the USEPA-approved SIPs.

(3) A review of actual ozone ambient air quality data for the Cincinnati-Hamilton area indicates that the area has monitored no more than one exceedance of the NAAQS at any monitor during 1996.

Therefore, USEPA approves the Ohio and Kentucky attainment date extension requests for the Cincinnati-Hamilton ozone nonattainment area. As a result, the Kentucky Control Strategy for Ozone which is codified at 40 CFR 52.930 and the Ohio Control Strategy for Ozone which is codified at 40 CFR 52.1885 are being amended to record these attainment date extensions. The chart in 40 CFR 81.318 entitled ''Kentucky-Ozone'' is being modified to reflect USEPA's approval of Kentucky's attainment date extension request. The chart in 40 CFR 81.336 entitled ''Ohio-Ozone'' is also being modified to reflect USEPA's approval of Ohio's attainment date extension request.

USEPA Action

USEPA is approving the attainment date extension requests for the Cincinnati-Hamilton moderate ozone nonattainment area from November 15, 1996 to November 15, 1997 without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve this part 52 and part 81 action should adverse or critical comments be filed. This action will be effective July 28, 1997 unless, by June 26, 1997 adverse or critical comments are received.

If USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 28, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrators under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Extension of an area's attainment date under the CAA does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. USEPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal

governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, USEPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in this **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 28, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to grant Ohio and Kentucky an extension to attain the ozone NAAQS in the Cincinnati-Hamilton ozone nonattainment area as defined in 40 CFR 81.318 and 40 CFR 81.336 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 16, 1997.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: May 16, 1997.

Valdas V. Adamkus,

Regional Administrator, Region 5.

Parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart S—Kentucky

2. Section 52.930 is amended by adding paragraph (d) to read as follows:

§ 52.930 Control strategy: Ozone.

* * * * *

(d) Kentucky's November 15, 1996, request for a one-year attainment date extension for the Kentucky portion of the Cincinnati-Hamilton metropolitan moderate ozone nonattainment area which consists of Kenton, Boone, and Campbell Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

Subpart KK—Ohio

3. Section 52.1885 is amended by adding paragraph (bb) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(bb) Ohio's November 7, 1996, request for a one-year attainment date extension for the Ohio portion of the Cincinnati-Hamilton metropolitan moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In Section 81.318, the ''Kentucky—Ozone'' table is amended by revising the entry for the ''Cincinnati-Hamilton Area'' to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cincinnati-Hamilton Area:				
Boone County		Nonattainment		Moderate.[2]
Campbell County		Nonattainment		Moderate.[2]
Kenton County		Nonattainment		Moderate.[2]
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

3. In Section 81.336, the ''Ohio—Ozone'' table is amended by revising the entry for the ''Cincinnati-Hamilton Area'' to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Cincinnati-Hamilton Area:				
Butler County		Nonattainment		Moderate.[2]
Clermont County		Nonattainment		Moderate.[2]
Hamilton County		Nonattainment		Moderate.[2]
Warren County		Nonattainment		Moderate.[2]
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

[FR Doc. 97–13751 Filed 5–23–97; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 951208293–7055–04; I.D. 110796F]

RIN 0648–AF01

Fisheries of the Northeastern United States; Amendment 5 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries; Resubmitted Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement three provisions of Amendment 5 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) that were initially disapproved but have been revised and resubmitted by the Mid-Atlantic Fishery Management Council (Council). These measures revise the overfishing definition for Atlantic mackerel, establish criteria for a moratorium vessel permit for *Illex* squid, and establish a 5,000–lb (2.27 mt) incidental catch permit for *Illex* squid. The intent of these measures is to prevent overfishing and to avoid overcapitalization of the domestic fleet in these fisheries.

DATES: Effective June 26, 1997.

ADDRESSES: Copies of Amendment 5 and its supporting documents, and the resubmission including the environmental assessment, regulatory impact review (RIR) and initial regulatory flexibility analysis (IRFA), and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

Comments regarding the burden-hour estimates or any other aspect of the collection-of-information requirements contained in this rule should be sent to Dr. Andrew A. Rosenberg, Regional Administrator, 1 Blackburn Dr, Gloucester, MA 01930, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), (Attention: NOAA Desk Officer), Washington, D.C. 20502.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION:

Background

Amendment 5 was developed in response to concerns regarding overcapitalization expressed by industry representatives at several meetings of the Council and its Squid, Mackerel, and Butterfish (SMB) Committee in the early 1990's. Details concerning the development of Amendment 5 were provided in the preamble to the proposed rule, which was published in the **Federal Register** on December 20, 1995 (60 FR 65618), and are not repeated here.

NMFS, on behalf of the Secretary of Commerce (Secretary), reviewed Amendment 5 in light of the administrative record underlying it and the public comments received relative to the amendment and the proposed rule. Based upon this review, the following provisions of the amendment were found to be inconsistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and, accordingly, were disapproved: (1) The *Illex* moratorium permit, (2) the use of long term potential catch to cap allowable biological catch (ABC) for Atlantic mackerel, and (3) the exemption from the minimum mesh requirement for the *Loligo* fishery for a vessel fishing for sea herring whose catch is comprised of 75 percent or more of sea herring. Details concerning the disapprovals were provided in the preamble to the final rule implementing Amendment 5, which was published on April 2, 1996 (61 FR 14465), and are not repeated here.

At its June, 1996, meeting, the Council revised several of the disapproved measures for resubmission. Management measures for an *Illex* moratorium permit, an increase in the allowable incidental catch of *Illex*, and a cap on Atlantic mackerel ABC were resubmitted. A proposed rule to implement these measures was published in the **Federal Register** on December 23, 1996 (61 FR 67521). The preamble to the proposed rule described the measures. Comments were accepted through February 3, 1997. NMFS approved those measures on behalf of the Secretary on February 21, 1997.

Under the final rule, a vessel will qualify for a moratorium permit if 5,000 lb (2.27 mt) or more of *Illex* were landed from it and sold on at least 5 trips between August 13, 1981, and August 13, 1993. Additionally, a vessel that was under construction for, or was being rerigged for, use in the directed fishery for *Illex* on August 13, 1993, qualifies for a moratorium permit if 5,000 lb (2.27 mt) or more of *Illex* were landed from it and sold on at least 5 trips prior to December 31, 1994. The *Illex* moratorium will terminate at the end of the fifth year following implementation unless extended by an amendment to the FMP.

The rule also implements an open-access incidental catch permit for *Illex* squid. The catch allowance associated with this permit is 5,000 lb (2.27 mt) per

trip. This represents an increase of 2,500 lb (1.13 mt) over the allowance proposed in the initial submission of Amendment 5. The incidental allowance could be revised by the Council annually as part of the annual specification process.

Finally, the rule revises the overfishing definition for Atlantic mackerel to restrict ABC in U.S. and Canadian waters to that quantity of mackerel associated with a fishing mortality rate of $F_{0.1}$, as recommended by the Northeast Fisheries Science Center. The overfishing definition is otherwise unchanged, and still maintains the requirement that ABC be specified to maintain a spawning stock size of at least 900,000 mt in the year following the year for which specifications are being developed. Based on the most recent stock assessment for Atlantic mackerel (1994), this will cap ABC for Atlantic mackerel at 383,000 mt.

Changes From the Proposed Rule

There are two changes from the proposed rule. Paragraph 648.4(a)(5) is revised to be consistent with other Northeast regulations for vessel permits, and the heading at

§ 648.8(a)(5)(ii) is changed to read *Illex squid moratorium permit* (Applicable from July 1, 1997, until July 1, 2002.) This changes the effective date of the *Illex* moratorium permit from the previously proposed date of June 1, 1997, which appeared in Paragraph 648.4(a)(5) of the proposed regulations, to July 1, 1997. This change come as a result of delays in the publication of the final rule.

Comments and Responses

A total of four commenters provided 10 substantively different comments on the proposed rule to implement the resubmitted measures. The commenters were comprised of a representative of the East Coast Fisheries Federation, Inc., representatives of the States of Connecticut and Maine, and an individual representing Seafreeze, Ltd. of Rhode Island and Lund's Fisheries, Inc. of Cape May, New Jersey. One commenter supported the resubmitted measures for the *Illex* moratorium permit while three opposed this measure. One commenter supported the increase in the incidental catch allowance for *Illex*. One commenter appended several Congressional comments opposing the *Illex* moratorium permit. The substance of these comments are incorporated in other comments. No comments were received regarding the cap on Atlantic mackerel ABC.

Comment 1: One commenter asserts that the submission violates the mandate in the Magnuson-Stevens Act to reduce regulatory discards since catches of *Illex* may be mixed with *Loligo* to as much as a 50:50 ratio in certain seasons. The commenter assumes that a large number of vessels in the *Loligo*/butterfish moratorium fishery will not qualify for the *Illex* moratorium fishery, and that discards of *Illex* in excess of the bycatch allowance by these *Loligo* moratorium vessels will be unacceptable.

Response 1: The commenter bases his comment about the seasonal mixing of squid stocks on information supplied by an experienced fishing vessel captain at the August, 1996, Council meeting. The minutes of that meeting indicate the captain noted that by moving to a different area or fishing at a different time of day or both, a vessel operator can practically eliminate large bycatches of *Illex* and the need to discard large amounts of that species. The captain was actually making a point in favor of a bycatch allowance after attainment of 95 percent of the quota, a measure proposed in Amendment 6.

Comment 2: A commenter states that in other moratoria, the Council has used the landing of 1 lb (.45 kg) of the subject species during a time period as qualifying criteria for a moratorium permit, e.g., the summer flounder moratorium permit. Since the adoption of the multiple pound qualifying criterion for *Illex* and *Loligo* squid, the Council has reverted back to 1 lb (.45 kg) of landing in its scup moratorium permit qualifying criteria.

Response 2: The objective of the resubmitted measures for the *Illex* moratorium permit is to prevent overcapitalization in a fishery that is fully-utilized. The Council estimated that a 1 lb (.45 kg) of landing qualifying criterion would prequalify a minimum of 295 vessels using the August 13, 1981, through August 13, 1993, window. The Council noted and NMFS concurs, that given that 19 vessels harvested approximately 17,814 mt in 1992, which represents 94 percent of the 1997 quota for *Illex*, using a 1 lb (.45 kg) landing criterion would likely lead to overcapitalization and threaten the conservation of the *Illex* stock.

Comment 3: A commenter estimates that 400 vessels will obtain the *Loligo*/butterfish moratorium permit. To allow 400 boats into those fisheries while excluding them from *Illex* will do nothing but place enormous pressure on two species while providing no ''relief valve'' in the third; and there will be no opportunity to take advantage of normal cycles and fluctuations in resource availability and market—the essence of the mixed-trawl fishery which the Council has pledged to sustain.

Response 3: NMFS believes that those vessels which qualify for a *Loligo*/butterfish moratorium permit represent the historic and directed participants in the fishery. The same is true for the *Illex* fishery. The Council demonstrated that the number of vessels estimated to qualify for the *Illex* permit would have the ability to harvest in excess of the entire 1997 quota under certain circumstances. The Regulatory Impact Review prepared by the Council shows that allowing a large number of new vessels to prosecute this fishery could cause significant losses in income (8 to 10 percent) to existing harvesters while putting the stock in jeopardy.

Comment 4: The NMFS letter of disapproval of February 9, 1996, stated that ''the measure has discriminatory effects that render the allocation of fishing privileges in the *Illex* fishery unfair and inequitable.'' One commenter agrees and hopes NMFS will reject this even-more restrictive and more discriminatory plan.

Response 4: The letter of disapproval voiced a concern about the impact on vessels that routinely caught less than 5,000 lb (2.27 mt) of *Illex* per trip that would be eliminated from the fishery. The administrative record underlying Amendment 5 did not address these participants. This is the discriminatory effect that the Regional Administrator asked the Council to address. The administrative record supporting the resubmission indicated that if there were such participants, they were minimal and only participated in the fishery on an incidental basis. NMFS believes that increasing the incidental catch allowance to 5,000 lb (2.27 mt) for this species meets this concern.

Comment 5: One commenter complained that until last year, vessels fishing from northern New England ports were unable to target this resource because the use of small mesh nets which were necessary to catch *Illex* squid in the quantities required to qualify for a permit under the proposed rule, has been prohibited in the Gulf of Maine.

Response 5: Until April 1995, regulations in the Gulf of Maine did not prevent a small mesh fishery for *Illex* from being prosecuted under a number of different small mesh exemption programs which did in some cases include restrictions on fishing by area by season. Therefore, NMFS believes that vessel owners fishing in the Gulf of Maine had the same opportunity to qualify for an *Illex* moratorium permit as vessel owners from other areas.

Comment 6: One commenter was of the opinion that the qualification criteria for an *Illex* moratorium permit unquestionably contravene some of the most fundamental provisions of the Magnuson-Stevens Act, most particularly Section 301, National Standards 4 through 6.

Response 6: The qualification criteria are consistent with National Standards 4 through 6.

National Standard 4 prohibits discrimination between residents of different states. The qualifying criteria for a moratorium permit are unrelated to the residency of an applicant. National Standard 5 prohibits the implementation of a management measure that has economic allocation as its sole purpose. A moratorium using the qualifying criteria will prevent overcapitalization that could lead to overfishing of the resource. The 21st Northeast Stock Assessment Workshop (SAW 21) determined that the stock of *Illex* is currently fully-utilized and introduced new overfishing definitions for the squids to reduce the risk of overfishing these species, which new information determines lives for only 1 year.

National Standard 6 requires management measures to take into account and allow for variations among, and contingencies in fisheries, fishery resources, and catches. SAW 21 recommended a maximum optimum yield (Max OY) of 24,000 mt for the *Illex* fishery. The vessels that will comprise the moratorium fishery will be capable of taking this amount, although historic catches have been below the recommended Max OY. This will allow the Council to set annual quotas taking into account a range of catches and contingencies based upon future stock assessments.

Comment 7: A commenter provided several reasons for supporting the *Illex* moratorium measure. He states that the criterion is appropriate because it confers eligibility on participants with reasonable dependence on the fishery in the specified period. He states that it properly does not confer eligibility on vessel owners who entered the fishery after that period.

Response 7: NMFS agrees.

Comment 8: In support of the Council proposal, one commenter stated that a decision by NMFS to disapprove the *Illex* moratorium permit will trigger a surge in speculative over-capacity as people fish to gain history, thus causing a downward spiral in the industry and a shift in fishing behavior to derby system practices.

Response 8: NMFS agrees.

Comment 9: The resubmission analysis demonstrates that the *Illex* fishery is industrial in nature, with no real participation by small-scale fishermen. The resubmission analysis (pg 14–15) states that 18 out of 53 vessels that reported landing *Illex* in 1993 represented 99 percent of the total harvest of the fishery for that year. The average trip landed roughly 90,000 lb (40.83 mt) and the average landings of the 19 vessel reference fleet was 130,000 lb (58.98 mt). Small-scale fishermen are simply not involved in the directed fishery because it occurs offshore and requires substantial investments in freezing capacity or refrigerated seawater system capacity. The Council nonetheless increased the bycatch allowance to 5,000 lb (2.27 mt) to ensure that the traditional dependence in the *Illex* fishery by small-scale fishermen was fully accounted for.

Response 9: NMFS agrees.

Comment 10: One commenter observed that if the resubmission is disapproved and an open access fishery is permitted to continue, any effort by boats to diversify into the *Illex* fishery will now result in direct losses to existing *Illex* participants. As more vessels come into the fishery, the behavior patterns of the fishermen will begin to shift, and we will be faced with a derby-style system. If the *Illex* moratorium permit is approved, opportunities to diversify would still exist. Mackerel prices on the world market are good, and mackerel and herring both continue to be under-exploited. Vessel operators need to spend time and effort with the growing mackerel processing industry in Gloucester and New Bedford in order to develop stable markets for this fishery if their interest is diversification.

Response 10: NMFS agrees.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that this final rule is necessary for the conservation and management of the Atlantic mackerel, squid, and butterfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable law.

This rule has been determined to be not significant for purposes of E.O. 12866.

In compliance with the Regulatory Flexibility Act (RFA), the Council prepared an initial regulatory flexibility analysis (IRFA) for the resubmitted portion of Amendment 5. The IRFA concluded that this rule would have a significant impact on a substantial number of small entities. No comments were received on the IRFA. The final regulatory flexibility analysis (FRFA) consists of the IRFA, the comments and responses in this final rule, most of which address in some way the public's concerns about possible effects of this rule on small entities, and the discussion below.

The analysis of the impact of the moratorium on the existing participants in the directed *Illex* fishery is based on information available for 1993, the last year of the moratorium qualification period. The analysis shows that while there were 3,061 vessels issued the open-access vessel permit required to harvest *Illex* squid, only 53 vessels landed *Illex* squid that year. All of the owners of these permitted vessels are considered small business entities. Of those 53 vessels, only 26 vessels landed 5,000 lb (2.27 mt) or more of *Illex* on at least one trip in that year. The average number of trips for these vessels was 12.8 trips. Eighteen of those vessels accounted for 99% of the total landings. The total landings for all vessels landing any *Illex* in 1993 was 18,017 mt. However, 21 vessels accounted for 17,058 mt of the total landings. These landings represent nearly the entire total allowable catch (i.e., quota) for the *Illex* fishery. Most of the vessels that were issued the open-access vessel permit caught no *Illex* at all. Therefore, it is reasonable to conclude that the economic reliance of these vessels on this species is non-existent. It is likely that the owners of these vessels hold Federal permits for other fisheries in which they are substantial participants and obtained the open-access permit to preserve the option of retaining *Illex* if it was encountered as a bycatch in these other fisheries. In light of the foregoing, the directed fishery consists of a relatively small number of vessels that land substantial quantities of *Illex* per vessel. This analysis uses the 26 vessels that landed 5,000 lb (2.27 mt) or more on at least one trip in 1993 as the best estimate of the existing participants in the directed *Illex* fishery. Based on the average number of *Illex* trips these vessels made in 1993 (i.e., 12.8), they easily qualify for a *Illex* moratorium permit. These 26 vessels are referred to as the ''reference fleet''. The other 27 vessels that also landed *Illex* squid in 1993 are referred to as the ''fringe fleet''.

Amendment 5, as originally submitted by the Council, states that decreased landings of *Illex* from fisheries in other nations are likely to mean increased value for this species in future years. The value of *Illex* has been generally increasing for several years due to decreasing catches in other parts of the world. As a result, the U.S. *Illex* fishery would certainly attract additional

participants if entry is not limited. The landings data for the fishery demonstrate that the reference fleet is capable of taking the entire total quota for this species. Data for subsequent years shows that more vessels are entering the fleet and each vessel is taking less of the ''pie''. Since the directed *Illex* fishery typically involves large vessels that land high volumes of *Illex* (the total catch for a reference fleet vessel in 1993 was 1,522,695 lb), each additional vessel participating in the directed fishery would generate a large amount of *Illex* landings, creating the potential for a rapid increase in overcapitalization and resultant pressure to overfish the resource. Since there are a total of 52 vessels noted in Table 1 of resubmitted Amendment 5 that would qualify for a moratorium permit, the capacity to harvest the entire quota is extant in the fleet that would qualify for a moratorium permit. It is not anticipated that there will be a sudden shift of the additional vessels to the directed fishery, since this sector of the fleet has not, to date, exhibited a great economic reliance on *Illex*. The 27 vessel in the fringe fleet in 1993 made only an average of 3.9 trips and landed an average of 1,155 lb of *Illex* per trip. This pattern persisted in 1994. It is reasonable to conclude that these vessels have Federal fisheries permits for other fisheries on which they are more economically dependant. Also, some of owners of these vessels may be deterred from entering the directed *Illex* fishery due to the cost of acquiring refrigeration equipment necessary to maintain the product quality demanded by on-shore processors. Because of these reasons, the Council concluded that there is real justification for a vessel permit moratorium program to control further expansion of the directed fishery to avoid overcapitalization and jeopardy to the stock. NMFS agrees.

NMFS landings data is used in the resubmitted version of Amendment 5 as the basis to estimate the number of vessels additional to the reference fleet that would qualify for a moratorium permit under various moratorium permit eligibility criteria including the one chosen by the Council and implemented by this final rule. Five eligibility criteria in addition to the criteria implemented by this rule (landings of 5,000 lbs (2.27 mt) or more of *Illex* on at least 5 trips from August 13, 1981 - August 13, 1993) were evaluated. Each criterion was evaluated for two qualification periods: August 13, 1981 - August 13, 1993; and August 13, 1981 - August 13, 1994. The five additional eligibility criteria are: (1) landings of 2,500 lbs (1.13 mt) or more of *Illex* on at least 5 trips; (2) landings of 20,000 lbs or more of *Illex* during any 30-day period; (3) landings of 5,000 lbs (2.27 mt) or more of *Illex* on at least 1 trip; (4) landings of 2,500 lbs (1.13 mt) or more of *Illex* on at least 1 trip; and (5) landings of 1 lb (.45 kg) or more of *Illex* on at least 1 trip.

The number of vessels in addition to the 26 vessel reference fleet that would qualify for a moratorium permit under the qualifying criteria considered varies from a low of 26 under the eligibility criteria implemented in this rule (resulting in a qualifying fleet of 52 vessels) to a high of 309 under an eligibility criteria of 1 lb (.45 kg) or more of *Illex* landed on at least one trip between August 13, 1981 and August 13, 1994 (resulting in a qualifying fleet of 335 vessels).

In order to assess the impact of this rule on small business entities, an examination must be made of the impact upon the revenues of the reference fleet under a range of assumptions about the participation of the additional vessels. The reference fleet comprises the small business entities that are the substantial participants in the *Illex* fishery and most economically reliant upon it.

Because the qualification criteria adopted by the Council and implemented by this final rule would add the smallest number of additional vessels of all the alternatives considered, it is reasonable to conclude that the qualification criteria implemented by this rule would have the smallest economic impact upon the reference fleet of all the alternatives considered. This will minimize the significant economic impact on these small business entities while taking into account the factors that the Council has to consider under section 303(b)(6) of the Magnuson-Stevens Act when limiting access to a fishery. The underlying analysis in the resubmitted Amendment 5 shows that if none of the additional qualifying vessels make any landings, the revenue of the reference fleet would increase 5.3% if the 1997 quota of 19,000 mt is harvested. The increase is due to the fact that in 1993 total catch was only 18,017 mt. This analysis also examines a range of catch levels for the additional qualifying vessels and shows that reference fleet revenues could decrease by as much as 10.4%.

The *Illex* moratorium regime that was proposed by the Council in its initial submission of Amendment 5 was modified for the resubmission by increasing the incidental catch allowance for non-moratorium vessels from 2,500 lbs (1.13 mt) per trip to 5,000 lbs (2.27 mt) per trip and by limiting the moratorium to a period of five years unless extended by another FMP amendment (a ''sunset provision''). The criteria for qualifying for a moratorium permit were not changed.

The original moratorium regime was disapproved because it arbitrarily restricted vessels which have historically landed *Illex* in amounts greater than 2,500 lbs (1.13 mt) but less than 5,000 lbs (2.27 mt) per trip to an incidental catch allowance of 2,500 lbs (1.13 mt) per trip. These vessels, which may have routinely caught more than the 2,500 lbs (1.13 mt) incidental catch allowance proposed, would not qualify for a moratorium permit and would have had to reduce their landings to comply with the 2,500 lbs (1.13 mt) incidental catch allowance. While these vessels still will not qualify for a moratorium permit, the increased incidental catch allowance will allow them to harvest as incidental catch at least, and for most vessels, more than their past historical levels.

The modified measure implemented by this rule was approved by NMFS because the modifications (increase in incidental catch allowance to 5,000 lbs (2.27 mt) per trip and 5-year sunset provision) addressed the concerns that led to the initial disapproval. The incidental catch allowance of 5,000 lbs (2.27 mt) will allow sustained small vessel participation at or above previous historic levels. Therefore, this alternative compared to the original submission minimizes impacts on small entities that do not qualify for a moratorium permit and thus, cannot participate in the *Illex* directed fishery. Increasing the incidental catch allowance to 5,000 lbs (2.27 mt) per trip has no negative conservation effect because incidental catches are counted against the total quota. While this increase in the incidental catch allowance likely would mean that less of the quota will be available to those vessels qualifying for a moratorium permit, the effect on the qualifying fleet likely will be small, since only between 27 and 35 non-qualifying vessels caught *Illex* in the 1992 through 1994 fishery and it is unlikely any significant number of additional vessels will elect to join the harvest because it is not economically feasible to conduct a directed *Illex* fishery offshore at the low volume permitted by the 5,000 lbs (2.27 mt) per trip limit given the price per pound for landed *Illex* and the costs incurred during a fishing trip. In all likelihood, raising the incidental catch amount to 5,000 lbs (2.27 mt) per trip will be a factor only if the *Illex* move

inshore, a phenomenon which is uncertain from year to year.

Raising the incidental catch allowance higher than 5,000 lbs (2.27 mt) per trip was not analyzed since the 5,000 lbs limit eliminated the arbitrary restriction discussed above. However, as the limit is raised higher and higher more and more vessels could be lured into the incidental catch fishery with consequent negative economic impacts on participants in the directed fishery as the share available to them was reduced. This would unjustly benefit new participants in the incidental catch fishery at the expense of directed fishery participants with a historic economic reliance on this species.

The sunset provision submitted as part of the Council's resubmission will require the Council to examine capacity in the fishery over the five-year moratorium period. Should the Council determine that extension of the moratorium is necessary, an amendment, including the analyses required by the Magnuson-Stevens and Regulatory Flexibility Acts, will be required.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB control number.

This rule contains a collection-of-information requirement subject to the PRA. This requirement has been approved by the OMB under control number 0648–0202. Public reporting burden for the collection of information is estimated to average 30 minutes for an initial vessel permit application and 15 minutes for a vessel permit renewal request.

The estimated response times include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 21, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set out in the preamble, 50 CFR part 648, Subpart B, is amended as follows:

PART 648—FISHERIES OF NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.4, paragraphs (a)(5)(ii) through (a)(5)(iv) are redesignated as (a)(5)(iii) through (a)(5)(v), a new paragraph (a)(5)(ii) is added, introductory text for paragraphs (a)(5) and (a)(5)(i)(A), and newly redesignated paragraphs (a)(5)(iii) and (a)(5)(iv) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) *Mackerel, squid, and butterfish vessels* - Any vessel of the United States, including party and charter vessels, must have been issued and carry on board a valid vessel permit to fish for, possess, or land Atlantic mackerel, squid, or butterfish in or from the EEZ.

(i) *Loligo squid and butterfish moratorium permit.* (A) *Eligibility.* A vessel is eligible for a moratorium permit to fish for and retain *Loligo* squid or butterfish in excess of the incidental catch allowance specified in paragraph (a)(5)(iii) of this section, if it meets any of the following criteria:

* * * * *

(ii) *Illex squid moratorium permit* (Applicable from July 1, 1997, until July 1, 2002.)

(A) *Eligibility.* A vessel is eligible for a moratorium permit to fish for and retain *Illex* squid in excess of the incidental catch allowance specified in paragraph (a)(5)(iii) of this section, if it meets any of the following criteria:

(*1*) The vessel landed and sold 5,000 lb (2.27 mt) or more of *Illex* squid on at least 5 separate trips between August 13, 1981, and August 13, 1993; or

(*2*) The vessel is replacing such a vessel and meets the requirements of paragraph (a)(3)(i)(C) of this section; or

(*3*) The vessel was under construction for, or was being rerigged for, use in the directed fishery for *Illex* squid on August 13, 1993, and the vessel landed and sold 5,000 lb (2.27 mt) or more of *Illex* squid on at least 5 separate trips prior to December 31, 1994.

(B) *Application/renewal restrictions.* No one may apply for an initial *Illex* squid moratorium permit for a vessel after:

(*1*) June 26, 1998; or

(*2*) The owner retires the vessel from the fishery.

(C) *Replacement vessels.* See paragraph (a)(3)(i)(C) of this section.

(D) *Appeal of denial of permit.* See paragraph (a)(3)(i)(D) of this section.

(iii) *Squid/butterfish incidental catch permit.* Any vessel of the United States may obtain a permit to fish for or retain up to 2,500 lb (1.13 mt) of *Loligo* squid or butterfish, or up to 5,000 lb (2.27 mt) of *Illex* squid, as an incidental catch in another directed fishery. The incidental catch allowance may be revised by the Regional Administrator based upon a recommendation by the Council following the procedure set forth in § 648.21.

(iv) *Atlantic mackerel permit.* Any vessel of the United States may obtain a permit to fish for or retain Atlantic mackerel in or from the EEZ.

* * * * *

3. In § 648.13, paragraph (a) is revised to read as follows:

§ 648.13 Transfers at sea.

(a) Only vessels issued a *Loligo* and butterfish moratorium or *Illex* moratorium permit under § 648.4(a)(5) and vessels issued a mackerel or squid/butterfish incidental catch permit and authorized in writing by the Regional Administrator to do so, may transfer or attempt to transfer *Loligo*, *Illex*, or butterfish from one vessel to another vessel.

* * * * *

4. In § 648.14, paragraphs (p)(2) through (p)(8) are redesignated as (p)(3) through (p)(9), a new paragraph (p)(2) is added, and paragraphs (a)(75) and newly redesignated paragraph (p)(6) are revised to read:

§ 648.14 Prohibitions.

(a) * * *

(75) Transfer *Loligo*, *Illex*, or butterfish within the EEZ, unless the vessels participating in the transfer have been issued a valid *Loligo* and butterfish or *Illex* moratorium permit and are transferring the species for which the vessels are permitted or have a valid squid/butterfish incidental catch permit and a letter of authorization from the Regional Administrator.

* * * * *

(p) * * *

(2) Possess more than the incidental catch allowance of *Illex* squid unless

issued an *Illex* squid moratorium permit.

* * * * *

(6) Transfer squid or butterfish at sea to another vessel unless that other vessel has been issued a valid *Loligo* and butterfish or *Illex* moratorium permit and are transferring the species for which the vessel is permitted or a valid squid/butterfish incidental catch permit and a letter of authorization by the Regional Administrator.

* * * * *

[FR Doc. 97–13817 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 101
Tuesday, May 27, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–CE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. (Formerly Britten-Norman) BN2A MK. 111 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise AD 86–07–02, which currently requires repetitively inspecting the junction of the torque link lug and upper case of the main landing gear (MLG) torque link assemblies for cracks on Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2A, BN–2B, BN–2T, and BN2A MK. 111 series airplanes, and replacing any part found cracked with a like part. The proposed AD would remove from the applicability the BN–2A, BN–2B, and BN–2T series airplanes, and would retain the repetitive inspection and replacement (if necessary) requirements of AD 86–07–02 for the BN2A MK. 111 series airplanes. The proposed AD results from the Federal Aviation Administration's determination that additional AD action needs to be taken on the BN–2A, BN–2B, and BN–2T series airplanes. This additional action will be addressed in a separate AD. The actions specified by the proposed AD are intended to prevent failure of the main landing gear caused by cracks in the torque link area, which could lead to loss of control of the airplane during landing operations.

DATES: Comments must be received on or before July 2, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 86–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–1983 872511; facsimile 44–1983 873246. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Rodriguez, Program Officer, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2717; facsimile (32 2) 230.6899; or Mr. S.M. Nagarajan, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 86–CE–23–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 86–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA conducted a review of existing AD's that apply to Pilatus Britten-Norman BN–2A, BN–2B, BN–2T, and BN2A MK. 111 series airplanes. Assisting the FAA in this review were (1) Pilatus Britten-Norman; (2) the Regional Airlines Association (RAA); (3) the Civil Aviation Authority of the United Kingdom; and (4) several operators of the affected airplanes.

From this review, the FAA has identified AD 86–07–02, Amendment 39–5382, as one which falls under the FAA's aging aircraft policy. AD 86–07–02 currently requires repetitively inspecting the junction of the torque link lug and upper case of the main landing gear (MLG) torque link assemblies for cracks on Pilatus Britten-Norman BN–2A, BN–2B, BN–2T, and BN2A MK. 111 series airplanes, and replacing any cracked part.

Pilatus Britten-Norman has developed a modification that, when incorporated, would eliminate the need for the

repetitive inspection requirement of AD 86–07–02 for the Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes. The requirements of AD 86–07–02 should still apply for the Pilatus Britten-Norman BN2A MK. 111 series airplanes.

Applicable Service Information

Fairey Hydraulics Limited has issued Service Bulletin (SB) 32–7 , Issue 3, dated January 30, 1990, and Fairey Hydraulics Limited SB 32–10 , Issue 2, dated November 10, 1992. These SB's include procedures for inspecting the junction of the torque link lug and upper case of the MLG torque link assemblies on Pilatus Britten-Norman BN2A MK. 111 series airplanes. Pilatus Britten-Norman SB BN–2/SB. 173, Issue 3, dated November 16, 1990, references Fairey Hydraulic Limited SB 32–7; and Pilatus Britten-Norman SB BN–2/SB.209, Issue 1, dated November 30, 1992, references Fairey Hydraulic Limited SB 32–10.

The FAA's Determination

The FAA has examined all available information related to this subject matter and has determined that:

- AD 86–07–02 should be revised to remove the BN–2A, BN–2B, and BN–2T series airplanes from the applicability of the AD (the BN2A MK. 111 series airplanes should still apply); and
- Separate AD action should be taken for the Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes to require a modification to the main landing gear torque link assembly.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Britten-Norman BN2A MK. 111 series airplanes of the same type design, the proposed AD would revise AD 86–07–02 by removing the BN–2A, BN–2B, and BN–2T series airplanes from the applicability of that AD. The requirement of repetitively inspecting the junction of the torque link lug and upper case of the MLG torque link assemblies would be retained for the BN2A MK. 111 series airplanes. The FAA will propose separate AD action for the BN–2A and BN–2T series airplanes to require a modification that, when incorporated, would eliminate the repetitive inspection requirement currently required by AD 86–07–02. Accomplishment of the proposed inspections and would be accomplished in accordance with the previously referenced service bulletins.

Cost Impact

The FAA estimates that nine airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately one workhour per airplane to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $540 or $60 per airplane. This figure only takes into account the cost of the proposed initial inspection and does not take into account the cost of the proposed repetitive inspections. The FAA has no way of determining the number of repetitive inspections each of the owners/operators would incur over the life of the affected airplanes.

In addition, the proposed inspections are currently required on the nine affected airplanes. The proposed AD would not require any additional actions over that already required by AD 86–07–02.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 86–07–02, Amendment 39–5382, and by adding a new AD to read as follows:

Pilatus Britten-Norman Ltd.: Docket No. 86–CE–23–AD. Revises AD 86–07–02, Amendment 39–5382.

Applicability: Models MK. 111, BN2A MK. 111–2, and BN2A MK. 111–3 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required prior to further flight after the effective date of this AD (see **Note 2**) or within 100 hours time-in-service (TIS) after the last inspection accomplished in accordance with AD 86–07–02, whichever occurs later, and thereafter at intervals not to exceed 100 hours TIS.

Note 2: The ''prior to further flight after the effective date of this AD'' compliance time was the original initial compliance time of AD 86–07–02, and is being retained to provide credit and continuity for already-accomplished and future inspections.

To prevent failure of the main landing gear caused by cracks in the torque link assembly area, which could lead to loss of control of the airplane during landing operations, accomplish the following:

(a) Inspect the junction of the torque link lug and upper case for cracks (using a 10-power magnifying glass or by dye penetrant methods) in accordance with Fairey Hydraulics Limited Service Bulletin (SB) 32–7, Issue 3, dated January 30, 1990, or Fairey Hydraulics SB 32–10, Issue 2, dated November 10, 1992, as applicable. Pilatus Britten-Norman SB BN–2/SB. 173, Issue 3, dated November 16, 1990, references Fairey Hydraulic Limited SB 32–7; and Pilatus Britten-Norman SB BN–2/SB.209, Issue 1, dated November 30, 1992, references Fairey Hydraulic Limited SB 32–10.

(b) If cracked parts are found during any of the inspections required by this AD, prior to further flight, replace the cracked parts

with airworthy parts in accordance with the applicable maintenance manual.

(c) If the landing gear is replaced, only equal pairs of the same manufacturer are approved as replacement parts. Mixing of different manufacturer landing gears is not authorized.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these actions along with other scheduled maintenance on the airplane.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the inspection requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Division, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division. Alternative methods of compliance approved for AD 86–07–02 are considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Division.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Fairey Hydraulics Limited, Claverham, Bristol, England; or Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR, as applicable; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment revises AD 86–07–02, Amendment 39–5382.

Issued in Kansas City, Missouri, on May 19, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–13691 Filed 5–23–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–25–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. (Formerly Britten-Norman) BN–2A, BN–2B, and BN–2T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive that would apply to Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2A, BN–2B, and BN–2T series airplanes. The proposed AD would require repetitively inspecting the junction of the torque link lug and upper case of the main landing gear (MLG) torque link assemblies for cracks, and replacing any MLG torque link assembly with a Modification A39 MLG torque link assembly, either immediately when cracks are found or after a certain period of time if cracks are not found. Replacing all MLG torque link assemblies with Modification A39 MLG torque link assemblies would eliminate the need for the repetitive inspections. These proposed repetitive inspections are currently required by AD 86–07–02 for the BN–2A, BN–2B, and BN–2T series airplanes, as well as the BN2A MK. 111 series airplanes. There are no improved design parts for the BN2A MK. 111 series airplanes. The Federal Aviation Administration (FAA) is issuing in a separate action a proposed revision to AD 86–07–02 to retain the repetitive inspection and replacement (if cracked) requirements for the BN2A MK. 111 series airplanes.

The actions specified in the proposed AD are intended to prevent failure of the main landing gear caused by cracks in the torque link area, which could lead to loss of control of the airplane during landing operations.

DATES: Comments must be received on or before July 2, 1997.

ADDRESSES: Submit comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–1983 872511; facsimile 44–1983 873246. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Rodriguez, Program Officer, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2717; facsimile (32 2) 230.6899; or Mr. S.M. Nagarajan, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–CE–25–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–25–AD, Room

1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA conducted a review of existing AD's that apply to Pilatus Britten-Norman BN–2A, BN–2B, BN–2T, and BN2A MK. 111 series airplanes. Assisting the FAA in this review were (1) Pilatus Britten-Norman; (2) the Regional Airlines Association (RAA); (3) the Civil Aviation Authority of the United Kingdom; and (4) several operators of the affected airplanes.

From this review, the FAA has identified AD 86–07–02, Amendment 39–5382, as one which falls under the FAA's aging aircraft policy. AD 86–07–02 currently requires repetitively inspecting the junction of the torque link lug and upper case of the main landing gear (MLG) torque link assemblies for cracks on Pilatus Britten-Norman BN–2A, BN–2T, and BN2A MK. 111 series airplanes, and replacing any cracked part.

Pilatus Britten-Norman has developed a modification that, when incorporated, would eliminate the need for the repetitive inspection requirement of AD 86–07–02 for the Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes. The requirements of AD 86–07–02 should still apply for the Pilatus Britten-Norman BN2A MK. 111 series airplanes.

Applicable Service Information

Fairey Hydraulics Limited has issued Service Bulletin (SB) 32–4, Issue 4, dated January 30, 1990, which applies to the Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes. This SB includes procedures for inspecting the junction of the torque link lug and upper case of the MLG torque link assemblies, and installing new Modification A39 MLG torque link assemblies. Pilatus Britten-Norman SB BN–2/SB.170, Issue 4, dated November 16, 1990, references Fairey Hydraulic Limited SB32–4, Issue 4, dated January 30, 1990.

The FAA's Determination

The FAA has examined all available information related to this subject matter and has determined that:

- AD action should be taken for the Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes to require the installation of Modification A39 MLG torque link assemblies. The repetitive inspections of the junction of the torque link lug and upper case of the MLG torque link assemblies would still be required until the improved parts are installed; and
- AD 86–07–02 should be revised to remove the BN–2A and BN–2T series airplanes from the applicability of that AD, but retain the actions for the BN2A MK. 111 series airplanes (this is being proposed in a separate action).

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes of the same type design, the proposed AD would require repetitively inspecting the junction of the torque link lug and upper case of the MLG torque link assemblies for cracks, and replacing any MLG torque link assembly with a Modification A39 MLG torque link assembly, either immediately when cracks are found or at a certain period of time if cracks are not found. Installation of the improved part would eliminate the need for the repetitive inspections. Accomplishment of the proposed inspections and installation would be in accordance with Fairey Hydraulics Limited SB 32–4, Issue 4, dated January 30, 1990.

Cost Impact

The FAA estimates that 112 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 13 workhours per airplane to accomplish the proposed action (1 workhour per inspection and 12 workhours for the installation), and that the average labor rate is approximately $60 an hour. Parts cost approximately $6,200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $781,760 or $6,980 per airplane.

The proposed inspections are currently required on the 112 affected airplanes by AD 86–07–02. The proposed AD would not require any additional inspection requirements over that already required by AD 86–07–02. In addition, the cost figures referenced above are based on the presumption that no affected airplane operator has incorporated the proposed inspection-terminating installation. Pilatus Britten-Norman does not know the number of parts distributed to the affected airplane owners/operators. Numerous sets of parts were sent out to the owners/operators of the affected airplanes, but over the years Pilatus Britten-Norman has not retained these records.

The FAA's Aging Commuter Aircraft Policy

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 112 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 25 percent are operated in scheduled passenger service by 11 different operators. A significant number of the remaining 75 percent are operated in other forms of air transportation such as air cargo and air taxi.

The proposed action would allow at least 1,000 hours TIS after the effective date of the AD before mandatory accomplishment of the design modification (upon the accumulation of 5,000 hours TIS or within the next 1,000 hours TIS after the effective date of the AD, whichever is later). The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter airplanes involved in commercial operation would have to accomplish the proposed modification within 5 to 10 calendar months (at the least) after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 5 to 10 years (at the least) before the proposed modification would be mandatory. The time it would take those in air cargo/air taxi operations before the proposed action would be mandatory is unknown because of the wide variation between each airplane used in this service. The exact numbers would fall somewhere between the average for commuter operators and private operators.

Regulatory Flexibility Determination and Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules would have a ''significant economic impact on a substantial number of small entities,'' and, in cases where they would, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A ''substantial number'' is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a proposed rule, or any number of small entities judged to be substantial by the rulemaking official. A ''significant economic impact'' is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types.

The entities that would be affected by this AD are mostly in the portion of Standard Industrial Classification (SIC) 4512, Operators of Aircraft for Hire, classified as ''unscheduled.'' FAA Order 2100.14A sets the size threshold for small entities operating aircraft in this category at nine or fewer aircraft owned and the annualized cost thresholds of at least $4,975 (1996 dollars) for unscheduled operators. A four-year life for the torque link assembly and capital cost of 15-percent would establish an annualized cost of $2,445 (1996 dollars). This is less than 50-percent of the threshold cost of $4,975 per year. In order to incur costs of at least $4,975, an entity would have to operate three or more of the airplanes referenced in the proposed AD. FAA data shows that only five small entities operate three or more of these airplanes. In addition, this data shows that approximately 60 entities operate the airplanes referenced in the proposed AD, but that only 15 of these entities (one-fourth) operate two or more of these airplanes.

Based on this information, less than one-third of the entities would incur significant operating costs under FAA Order 2100.14A. Therefore, the proposed AD would not significantly affect a number of small entities.

A copy of the full Cost Analysis and Regulatory Flexibility Determination for the proposed action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pilatus Britten-Norman: Docket No. 96–CE–25–AD.

Applicability: Models BN–2, BN–2A, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–2, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, and BN–2T airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure of the main landing gear caused by cracks in the torque link assembly area, which could lead to loss of control of the airplane during landing operations, accomplish the following:

(a) Prior to further flight after the effective date of this AD or within the next 100 hours time-in-service (TIS) after the last inspection required by AD 86–07–02, whichever occurs later, and thereafter at intervals not to exceed 100 hours TIS until the installations required by paragraph (c) of this AD are accomplished, inspect the junction of the torque link lug and upper case of all main landing gear (MLG) torque link assemblies for cracks (using a 10-power magnifying glass or by dye penetrant methods). Accomplish these inspections in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairey Hydraulics Limited Service Bulletin (SB) 32–4, Issue 4, dated January 30, 1990. Pilatus Britten-Norman SB BN–2/SB.170, Issue 4, November 16, 1990, references this service bulletin.

Note 2: These inspections were initially a part of AD 86–07–02, which applied to the BN2A MK. 111 series airplanes as well as the airplanes affected by this AD. The ''prior to further flight after the effective date of this AD'' compliance time was the original initial compliance time of AD 86–07–02, and is being retained to provide credit and continuity for already-accomplished and future inspections.

(b) If any cracks are found during any of the inspections required by this AD, prior to further flight, replace the MLG torque link assembly with a Modification A39 MLG torque link assembly in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairey Hydraulics Limited SB No. 32–4, Issue 4, dated January 30, 1990.

(1) Repetitive inspections are no longer required when all MLG torque assemblies are replaced with Modification A39 MLG torque link assemblies.

(2) Repetitive inspections may no longer be required on one MLG torque assembly, but still be required on another if all haven't been replaced with a Modification A39 MLG torque link assembly.

(c) Upon the accumulation of 5,000 hours TIS or within the next 1,000 hours TIS after

the effective date of this AD, whichever occurs later, unless already accomplished as specified in paragraph (b) of this AD, replace each MLG torque link assembly with a Modification A39 MLG torque link assembly in accordance with of the ACCOMPLISHMENT INSTRUCTIONS section of Fairey Hydraulics Limited SB No. 32–4, Issue 4, dated January 30, 1990.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these actions along with other scheduled maintenance on the airplane.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the inspection requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Division, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Division.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Fairey Hydraulics Limited, Claverham, Bristol, England; or Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR, as applicable; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 19, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–13692 Filed 5–23–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–200–C]

Notice of Public Meeting on Review of the Ethylene Oxide Standard (29 CFR 1910.1047)

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is conducting a review of the Ethylene Oxide standard in order to determine, consistent with Executive Order 12866 on Regulatory Planning and Review and Section 610 of the Regulatory Flexibility Act, whether this standard should be maintained without change, rescinded, or modified in order to make it more effective or less burdensome in achieving its objectives, to bring it into better alignment with the objectives of Executive Order 12866, or to make it more consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as few burdens as possible on small employers.

Written public comments on all aspects of compliance with the Ethylene Oxide standard are welcomed. OSHA will also hold a stakeholder's meeting to provide an opportunity for interested parties to comment on whether the Ethylene Oxide standard should be eliminated, modified, or continued without change to obtain the objectives described above.

DATES: The public meeting will be held on Monday, June 30, 1997. The meeting will begin at 9:00 a.m. and is scheduled to end at 12:00 p.m. Written comments should be received by August 1, 1997 in the OSHA Docket Office at the address listed below.

ADDRESSES: The public meeting will be held in Room N3437 of the Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Requests to appear and written comments: OSHA requests that any person wishing to appear at the public meeting notify OSHA in writing. To assure that time is provided for oral comments, the request should be received by OSHA no later than Monday, June 23, 1997, and should identify the person and/or organization intending to appear, address and phone/fax number, the amount of time requested, and a brief summary of the comments to be presented. Please send written requests to appear to Nancy Dorris at the address listed below. All comments received from interested parties will be included in Docket H–200–C, and will be available for public review in the OSHA Docket Office, Room N2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 219–7894.

Persons with disabilities who need special accommodations should contact Nancy Dorris, by Monday, June 23, 1997, at the address indicated below.

FOR FURTHER INFORMATION CONTACT: Nancy Dorris, Office of Regulatory Analysis, Directorate of Policy, Occupational Safety and Health Administration, Room N3627, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 219–4690, extension 134, Fax (202) 219–4383.

SUPPLEMENTARY INFORMATION: In 1984, OSHA promulgated a health standard for Ethylene Oxide (29 CFR 1910.1047) with a permissible exposure limit of 1 part per million parts of air (1 ppm) as an 8-hour time-weighted average (49 FR 25734, June 22, 1984). The basis for this action was a determination, based on animal and human data, that exposure to Ethylene Oxide presents a carcinogenic, mutagenic, genotoxic, reproductive, neurologic and sensitization hazard to workers. The standard provides for, among other requirements, methods of exposure control, personal protective equipment, measurement of employee exposures, training, medical surveillance, signs and labels, regulated areas, emergency procedures, and recordkeeping. An action level of 0.5 ppm as an 8-hour time weighted average is included as the level above which employers must initiate certain compliance activities such as periodic employee exposure monitoring and medical surveillance. In instances where the employer can demonstrate that employee exposures are below the action level, the employer is not obligated to comply with most of the requirements of the standard. In 1988, OSHA amended the Ethylene Oxide standard by adopting an excursion limit of 5 ppm averaged over a sampling period of 15 minutes (53 FR 11414, April 6, 1988).

OSHA estimated in the Final Regulatory Impact Analysis for the Ethylene Oxide standard that the standard would have an annual cost of $35.5 million (49 FR 25734, June 22, 1984). OSHA also estimated that between 457 and 871 cancer fatalities would be prevented over a fifty year period as a result of the standard.

OSHA has selected the Ethylene Oxide standard for review in accordance with the regulatory review provisions at Section 5 of Executive Order 12866 (58 FR 51735, 51739, Oct. 4, 1993) and Section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The purpose of the review is to determine whether the standard should be continued without change, rescinded, or amended to make it more effective or less burdensome in achieving its objectives, to bring it into better alignment with the objectives of Executive Order 12866, or to make it more consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while

imposing as little burden as possible on small employers. In the event the Agency determines, based on the results of this review, that the rule should be rescinded or modified, appropriate rulemaking will be initiated.

An important step in the review process involves the gathering and analysis of information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. This notice requests written comments and announces a public meeting to provide an opportunity for interested parties to comment on the continuing need for, adequacy or inadequacy, and potential improvement of this rule. Comment concerning the following subjects would assist the Agency in determining whether to retain the standard unchanged or to initiate rulemaking for purposes of revision or recission:

1. The benefits and utility of the rule in its current form and, if amended, in its amended form;
2. Whether potentially effective and reasonably feasible alternatives to the standard exist;
3. The continued need for the rule;
4. The complexity of the rule;
5. Whether and to what extent the rule overlaps, duplicates, or conflicts with other Federal, State, and local governmental rules;
6. Information on any new developments in technology, economic conditions, or other factors affecting the ability of affected firms to comply with the Ethylene Oxide rule;
7. Alternatives to the rule or portions of the rule that would minimize significant impacts on small businesses while achieving the objectives of the Occupational Safety and Health Act; and
8. The effectiveness of the standard as implemented by small entities.

Persons making timely written requests to speak at the public meeting will be given priority for oral comments, as time permits. Other persons wishing to speak should register at the meeting from 8:30 to 9:00. OSHA will make every effort to accommodate individuals wishing to speak at the public meeting.

Authority: This document was prepared under the direction of Gregory R. Watchman, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of May, 1997.

Gregory R. Watchman,

Acting Assistant Secretary.

[FR Doc. 97–13799 Filed 5–23–97; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH107–1b; KY94–9717b; FRL–5830–4]

Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA is proposing to extend the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. In the final rules section of this **Federal Register**, the USEPA is approving these actions as a direct final rule without prior proposal because USEPA views these actions as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives substantive adverse comments which have not already been responded to, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 26, 1997.

ADDRESSES: Comments may be mailed to Joseph M. LeVasseur at the USEPA Region 4 address listed below or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), Region 5 at the address listed below. Copies of the material submitted by the Kentucky Natural Resources and Environmental Protection Cabinet(KNREPC) may be examined during normal business hours at the following locations:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street S.W. , Atlanta, Georgia 30303–3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Copies of the materials submitted by the Ohio Environmental Protection Agency (OEPA) may be examined during normal business hours at the following locations:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

OEPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano at (312) 886-6036 or Joseph M. LeVasseur at (404) 562–9035.

SUPPLEMENTARY INFORMATION:

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 16, 1997.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: May 16, 1997.

Valdas V. Adamkus,

Regional Administrator, Region 5.

[FR Doc. 97–13752 Filed 5–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 271, and 302

[SWH–FRL–5831–1]

Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Petroleum Refining/ Notice of Data Availability (NODA)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule/notice of data availability; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed listing determination for the petroleum refining industry, which appeared in the **Federal Register** on April 8, 1997 (see 62 FR 16747). The public comment period for this proposed rule was to end on June 9, 1997. The purpose of this notice is to extend the comment period to end on July 11, 1997.

DATES: EPA will accept public comments on this Notice of Data Availability until July 11, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–97–PRA–FFFFF to: RCRA Docket

Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below.

Comments may also be submitted electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–PRA–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. If comments are not submitted electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of the report, contact Maximo (Max) Diaz, Jr. or Robert Kayser, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. [E-mail addresses and telephone numbers: Diaz.max@epamail.epa.gov, (703) 308–0439; Kayser.robert@epamail.epa.gov, (703) 308–7304.]

SUPPLEMENTARY INFORMATION: The proposed rule and Notice of Data Availability were issued under Section 3001(b) of RCRA. EPA proposed and provided supplemental analyses (NODA) to list certain wastes generated during the refining of petroleum because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 60 FR 57747 (November 20, 1995) and 62 FR 16747 (April 8, 1997) for a more detailed explanation of the proposed rule and the NODA.

In addition to the notice of extension to the NODA comment period, the Agency today is including in the docket information that was inadvertently excluded from the NODA and making a minor typographical correction. The excluded information consists of Tables A–5.1 through A–5.9 of Appendix A and Table 6.7 [Physical and Chemical Properties of Benzene and Exposure Factors Used in the Dermal Exposure Model], all pertaining to the Supplemental Background Document; Nongroundwater Pathway Risk Assessment [F–97–PRA–S0017]. The typographical correction in the same document is as follows: on page C–4 of Appendix C, replace ''(see Section C.3)'' with ''(see Table C.1).'' Some of this additional information has been added to the rulemaking docket and some will be added within the next few weeks, before the end of the comment period. Consequently, EPA cautions all interested parties to check the docket regularly.

Dated: May 13, 1997.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 97–13753 Filed 5–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400113; FRL–5720–8]

Toxic Chemical Release Reporting; Community Right-to-Know; Additional Time to Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of time for submission of reports.

SUMMARY: EPA is announcing that it will allow facilities required to submit Toxic Release Inventory (TRI) reports for calendar year 1996 until August 1, 1997, to file those reports. These TRI reports under section 313 of the Emergency Planning and Community Right-to-Know Act and section 6607 of the Pollution Prevention Act would otherwise be due on or before July 1, 1997. EPA's distribution of the reporting package, which includes extensive materials and guidance for preparing TRI reports, for the 1996 reporting year has been delayed. To allow facilities adequate time to prepare and submit complete and accurate TRI reports, EPA is allowing facilities an extra month in which to report.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, 202–260–9592, e-mail: doa.maria@epamail.epa.gov, for specific information on this notice, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Background

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11023 (EPCRA, which is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499)), requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act (PPA), 42 U.S.C. 13106. EPCRA section 313 and PPA section 6607 require that covered facilities report this information on or before July 1 of each year for activities

at those facilities during the previous calendar year. EPA is required to put the EPCRA section 313/PPA section 6607 information in an electronic data base that is accessible to the public. This data base is commonly referred to as the Toxics Release Inventory (TRI). State and local governments, industry, non-government organizations, and the public make extensive use of this data base.

Each year, prior to the reporting deadline, EPA develops and sends to facilities a reporting package containing the current TRI reporting form (Form R), the alternate threshold reporting form (Form A), the list of toxic chemicals subject to reporting, and instructions for reporting. In recent years, the package has also included computer diskettes containing the automated Form R for electronic reporting. EPA has found that providing this extensive reporting package reduces confusion and the number of reporting errors, and expedites the whole reporting process. In the past, these packages have been distributed by early March of the year in which reports are due to allow adequate time for review and use by the reporting facilities.

II. Additional Time to Report for 1996

For the 1996 reporting year, EPA revised the Form R to collect more specific information on disposal into underground injection wells and landfills. The Office of Management and Budget approved the reporting and recordkeeping requirements related to the revised Form R on April 30, 1997. Because EPA could not print the forms and instructions until the Agency received approval for the Form R, EPA's printing and distribution of the 1996 Form R will not be complete until June 1997. Thus, facilities subject to TRI reporting may not have sufficient time to prepare and submit their reports by July 1, 1997. EPA is concerned that in rushing to report by July 1, facilities may make errors that would reduce the accuracy and utility of the reports and, ultimately, the public data base. In addition, EPA believes that the delay in the distribution of the reporting package may create concern in the regulated community regarding potential enforcement actions, including civil penalties, for those facilities submitting reports that may contain errors as a result of the late distribution of the EPA reporting package or reporting after the July 1, 1997 deadline.

In recognition of the importance to State and local governments, industry, and the public that facilities submit complete and accurate TRI reports, EPA is allowing all reporting facilities an additional month to August 1, 1997, to submit their 1996 TRI reports. However, reports for the 1996 reporting year that are filed after August 1, 1997, will be subject to EPA enforcement action, where appropriate. This allowance of additional time for reporting applies only to the EPCRA section 313/PPA section 6607 reporting obligations for TRI reports otherwise due on July 1, 1997, covering calendar year 1996. Nothing in this action shall be construed to apply to any other EPCRA reporting obligations, or to any TRI reports due for past or future reporting years. Further, this allowance of additional time for reporting applies only to the federal EPCRA section 313/PPA section 6607 reporting obligation; it does not apply to independent obligations under State laws which also require TRI-type reports. However, EPA encourages the States with similar requirements that relate to federal TRI reporting to embrace this allowance of additional time. To the extent that this action might be construed as rulemaking subject to section 553 of the Administrative Procedure Act, for the reasons stated above, EPA has determined that notice and an opportunity for public comment are impracticable and unnecessary. Providing for public comment might further delay reporting, and, because there is no substantive change in the reporting obligation, other than allowing an additional month, the public will continue to receive the same information. Moreover, a further delay in reporting would almost certainly mean a delay in the release of the information to the public. Also, public comment would not further inform EPA's decision because the events giving rise to the need to provide extra time for reporting have already occurred. In addition, additional notice and comment procedures in this situation would be contrary to the public interest in timely and accurate reporting of data under EPCRA section 313 and PPA section 6607.

III. Availability of the Form R and Instructions

A. The Internet

Notwithstanding the delay in distribution of the printed version, the revised Form R and Instructions, currently are available on the Internet. The Form R and Instructions, which can be downloaded as portable document format (PDF) files, are available at http://www.epa.gov/opptintr/tri/formr.htm. The Automated Form R (AFR) and Instructions is also available on the internet. The internet address for the AFR is http://www.epa.gov/opptintr/afr96.

B. Fax on Demand

Using a faxphone call 202–401–0527 and select item 5100 for an index of available material and corresponding item numbers related to this document.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: May 20, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–13798 Filed 5–23–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 92–237, DA 97–1055]

The North American Numbering Council (NANC) Issues Recommendations on the North American Numbering Plan Administrator, Billing and Collection Agent, and Related Rules; Pleading Cycle Established

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On May 19, 1997, the Commission released a public notice announcing the North American Numbering Council's (NANC) recommendation for a North American Numbering Plan Administrator, Billing and Collection Agent, and related rules filed with the Commission on May 15, 1997. The intended effect of this action is to make the public aware that the FCC is seeking comments on the NANC's recommendation.

DATES: Comments are due by June 20, 1997 and reply comments by July 3, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marian Gordon or Scott Shefferman, Network Services Division, Common Carrier Bureau, at (202) 418–2320.

SUPPLEMENTARY INFORMATION:

Released: May 19, 1997

1. In a *Report and Order* released on July 13, 1995 in the above-referenced

docket (*Number Administration Order*), the Federal Communications Commission (Commission) established the North American Numbering Council (NANC) pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA). *The Number Administration Order* directed the NANC, among other things, to recommend to the Commission and to other member countries of the North American Numbering Plan (NANP) a neutral entity to serve as NANP Administrator and an appropriate mechanism for recovering the costs of NANP administration in the United States. The membership of NANC, which includes thirty-two voting members and four special non-voting members, was selected to represent all viewpoints regarding numbering administration. The Commission's charge that the NANC recommend an impartial NANP Administrator is consistent with Congress's directive in Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, that an impartial numbering administrator be named to make telecommunications numbering available on an equitable basis.

2. On May 15, 1997, the Commission received the NANC's Recommendation on the NANP Administrator and Billing and Collection Agent (Recommendation). Earlier, the NANC had received proposals in response to its Requirements Document that set forth the qualities and attributes of the NANPA and Billing and Collection Agent and the functions that each would be expected to perform.[1] Bell Communications Research (Bellcore), the Center for Communications Management Information (CCMI), Lockheed Martin Corporation (Lockheed), and Mitretek Systems (Mitretek) responded with proposals to serve as NANPA. Proposals to serve as Billing and Collection Agent were received from CCMI, Lockheed, and the National Exchange Carriers Association (NECA).

3. As indicated in the Recommendation, a majority of the NANC (13 members) voted to recommend Lockheed as the new NANPA for a period of five years and a minority (11 members) voted to recommend Mitretek. NANC further recommends that the entity designated to serve as the NANPA agree to two conditions. First, such entity must agree to make available any and all intellectual property and associated hardware including, but not limited to, systems, software, interface specifications and supporting documentation, generated by or resulting from its performance as NANPA, and to make such property available to whomever NANC directs, free of charge. Such entity must specify any property it proposes to exclude from the foregoing category of property based on the existence of such property prior to the entity's selection as NANPA. Second, the entity selected as the NANPA must perform the NANPA functions at the price the entity submitted in its proposal to the NANC that formed the basis for the entity's selection by the NANC. Such entity, however, may request from NANC and, with approval by the Commission, NANC may grant an adjustment in this price should the actual number of Central Office (CO) code assignments made per year, the number of numbering plan area codes (NPAs) requiring relief per year, or, the number of NPA relief meetings per NPA requiring relief exceed 120 percent of NANPA's assumptions for the above tasks made in the proposal to the NANC that formed the basis for the entity's selection by the NANC.

4. The NANC also recommends proposed rules, contained in attachments to the Recommendation, to govern the performance of the NANPA and Billing and Collection Agent and to address resolution of numbering disputes. Finally, the NANC unanimously recommends NECA as Billing and Collection Agent, subject to the Federal Communications Commission's ordering NECA to create an independent and neutral Board of Directors for NANPA Billing and Collection.

5. We seek comments on NANC's Recommendation. Interested parties should file an original and four copies of their comments on the NANC's North American Numbering Plan Administrator and Billing and Collection Agent Recommendation by June 20, 1997, and reply comments by July 3, 1997, with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. Comments and reply comments should reference CC Docket No. 92–237. In addition, parties should send two copies to Jeannie Grimes, Common Carrier Bureau, FCC, Suite 235, 2000 M Street, NW, Washington, DC 20554, and one copy to ITS, at 1231 20th Street, NW, Washington, DC 20036. Comments and reply comments will be available for public inspection and copying during regular business hours in the Commission's Public Reference Center, Room 239, 1919 M Street, NW, Washington, DC 20554. Copies of comments and reply comments will also be available from ITS, at 1231 20th Street, NW, Washington, DC 20036, or by calling (202) 857–3800.

6. Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 Section 9, and consistent with its charter, the NANC's authority is limited to providing advice and recommendations to the Commission. All procedural requirements of the Administrative Procedures Act, 5 U.S.C. section 551 *et. seq.*, and other applicable statutes will apply to this proceeding. We will treat this proceeding as a non-restricted rulemaking for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR §§ 1.1200(a), 1.1206. For further information contact Marian Gordon or Scott Shefferman, Network Services Division, Common Carrier Bureau, at (202) 418–2320.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 97–13762 Filed 5–21–97; 12:25 pm]

BILLING CODE 6712–01–P

[1] The Requirements Document is filed in CC Docket No. 92–237 and is available for inspection and copying in the Commission's Public Reference Center.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Contiguous United States Population of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the contiguous United States population of the Canada lynx (*Lynx canadensis*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this population is warranted but precluded by other higher priority actions to amend the List of Threatened and Endangered Wildlife and Plants.

DATES: The finding announced in this document was made on May 21, 1997.

ADDRESSES: Information, comments, or questions concerning this petition should be submitted to the Field Supervisor, Montana Field Office, Fish

and Wildlife Service, 100 N. Park Avenue, Suite 320, Helena, Montana 59601. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, Field Supervisor, at the above address, telephone (406) 449–5225.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)(Act), requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information, the Fish and Wildlife Service (Service) make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months.

On April 27, 1994, the Service received a petition from the Biodiversity Legal Foundation, Evan Frost, Mark Skatrud, Craig Coonrad, and Michael J. Polly to list the conterminous United States population of North American lynx (*Felis lynx canadensis*) as threatened or endangered. On August 26, 1994, the Service published a notice (59 FR 44123) of a 90-day finding that there was substantial information to indicate that listing this population may be warranted. On December 27, 1994, the Service published a notice (59 FR 66507) indicating that the Service's 12-month finding was that listing the Canada lynx in the contiguous United States was not warranted. On March 27, 1997, a resulting Court order remanded the 1994 Canada lynx 12-month finding back to the Service for reconsideration. The information in this notice is a summary of the information from the Service's reassessed and updated 12-month finding on a petition to list the contiguous United States population of Canada lynx, as required by the U.S. District Court.

The Service has reexamined the information in the 1994 administrative record and new information made available since the 1994 finding, and has consulted experts knowledgeable about Canada lynx. On the basis of the best scientific and commercial information available, the Service has determined that Canada lynx in the contiguous United States constitutes a distinct population segment under the Act. The Service finds that listing the Canada lynx population in the contiguous United States is warranted but precluded by work on other species having higher priority for listing.

The Canada lynx is a medium-sized cat with long legs; large, well-furred paws; long tufts on the ears; and a short, black-tipped tail (McCord and Cardoza 1982). The lynx's long legs and large feet make it highly adapted to hunting in deep snow.

The historical and present North American range of the Canada lynx includes Alaska and that part of Canada that extends from the Yukon and Northwest Territories south across the United States border, and east to New Brunswick and Nova Scotia. In the contiguous United States, the lynx historically occurred in the Cascade Range of Washington and Oregon, south in the Rocky Mountains to Utah and Colorado and east along the Canadian border to the Great Lakes States and Northeast region (McCord and Cardoza 1982; Quinn and Parker 1987). Barriers of unsuitable habitat occur along the southeastern Great Lakes, the Great Plains, and Wyoming's Red Desert.

Canada lynx are specialized predators that are highly dependent on the snowshoe hare (*Lepus americanus*) for food. Snowshoe hare prefer diverse, early successional forests with stands of conifers for cover and shrubby understories (Monthey 1986; Koehler and Aubry 1994). Canada lynx usually concentrate their foraging in areas where hare numbers are high, but they also require late successional forests with downed logs and windfalls to provide cover for denning sites, escape, and protection from severe weather (McCord and Cardoza 1982).

Based on expert opinion, information received during and since the original status review, and Service expertise, the Service has determined that resident, viable Canada lynx populations existed in the subalpine/coniferous forests of the Western United States and in the ecotone between boreal and northern hardwood forests in the Eastern United States.

The Service used the new vertebrate population policy published February 7, 1996 (61 FR 4722), to determine whether the Canada lynx in the contiguous United States constitutes a distinct population segment. The contiguous United States population of the lynx is discrete based on the international boundary between Canada and the contiguous United States and differences in status and habitat management of Canada lynx between the United States and Canada. In Canada, management of forest lands and conservation of wildlife habitat varies depending on Provincial regulations. There is no overarching forest practices legislation in Canada, such as the United States' National Forest Management Act, governing management of national lands and/or providing for consideration of wildlife habitat requirements. Additionally, Canada lynx harvest regulations vary, being regulated by individual Province or, in some cases, individual trapping district. Recent declining lynx numbers in southern Canada exacerbated by loss of lynx habitat along the United States/Canadian border severely restricts the ability for lynx numbers in the contiguous United States to improve (M. DonCarlos, Minnesota Department of Natural Resources, *in litt.* 1994; W. Krohn, *in litt.* 1994; R. Lafond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994; J. Lanier, pers. comm. 1994; J. Litvaitis, University of New Hampshire, pers. comm. 1994; C. Pils, *in litt.* 1994). Dispersal of Canada lynx into the contiguous United States is now necessary to replenish lynx numbers because lynx throughout much of their contiguous United States range are rare to extirpated. If the Canada lynx populations in southern Canada rebound, they should be able to help replenish lynx numbers in the United States. If the lynx populations in southern Canada are unable to rebound, then it appears natural recovery of Canada lynx in some portions of the contiguous United States is unlikely.

In a general sense, Canada lynx in the contiguous United States might be considered biologically and/or ecologically significant simply because they represent the southern extent of the species' overall range. There are climatic and vegetational differences between Canada lynx habitat in the contiguous United States and that in northern latitudes in Canada (Kuchler 1965). In the contiguous United States, Canada lynx inhabit transition zones that are a mosaic between boreal/coniferous forest and northern hardwoods, whereas in more northern latitudes, Canada lynx habitat is the boreal forest ecosystem (Barbour *et al.* 1980; McCord and Cardoza 1982; Koehler and Aubry 1994; M. Hunter, University of Maine, pers. comm. 1994). Canada lynx and snowshoe hare population dynamics in the contiguous

United States are different from those in northern Canada (Koehler and Aubry 1994, Washington Department of Natural Resources 1996). Historically, Canada lynx and snowshoe hare populations have been less cyclic in the contiguous United States, not exhibiting the extreme cyclic population fluctuations of the northern latitudes for which Canada lynx are noted (Wolff 1980, Brittell *et al.* 1989, Koehler and Aubry 1994, Washington Department of Natural Resources 1996). The less cyclic nature of this population has been attributed to the lower quality and quantity of habitat available in southern latitudes and/or the presence of additional snowshoe hare predators (Wolff *et al.* 1982, Koehler and Aubry 1994). The Service determines that the contiguous United States population of the Canada lynx is significant under the Service's Distinct Vertebrate Population Policy. Thus, the Canada lynx in the contiguous United States qualifies as a distinct population segment to be considered for listing under the Act.

Canada lynx have been observed in 22 of the contiguous United States. Historical lynx observations in several States (North Dakota, South Dakota, Iowa, Indiana, Ohio, and Virginia) may have been a result of transients dispersing during periods of high lynx population density elsewhere. However, the Service believes that historical lynx observations, trapping records, and other evidence documented in Maine, New Hampshire, Vermont, New York, Massachusetts, Pennsylvania, Michigan, Wisconsin, Minnesota, Washington, Oregon, Idaho, Montana, Wyoming, Utah, and Colorado confirms the Canada lynx as a viable species in the contiguous 48 States. Presently, the Service is able to confirm the presence of Canada lynx in only the States of Montana, Washington, Wyoming, and Maine. The Service believes the States of Idaho, Michigan, Minnesota, Wisconsin, Utah, and Colorado probably have lynx, but they are extremely rare. Lynx are likely extirpated throughout the remainder of their historical range (New York, Pennsylvania, New Hampshire, Vermont, Massachusetts, and Oregon).

Summary of Factors Affecting the Species

The following information is a summary and discussion of the five factors or listing criteria as set forth in section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act and their applicability to the current status of the contiguous United States population of the Canada lynx.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

Human alteration of the abundance, species composition, successional stages, and fragmentation of forests, and the resulting changes in the forest's capacity to sustain lynx populations, affect lynx habitat. Timber harvest and its related activities influence Canada lynx habitat in the contiguous United States. Intensive tree harvesting (i.e., clearcutting and thinning) can eliminate the mosaic of habitats necessary for Canada lynx survival, including late successional denning and early successional prey habitat. Specifically, these activities can result in reduced cover, unusable forest openings, and monotypic stands with a sparse understory that has been determined to be unfavorable for Canada lynx (Brittell *et al.* 1989; de Vos and Matel 1952; Harger 1965; Hatler 1988; Koehler 1990; K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994).

Over a relatively short period of time at the turn of the century in the Great Lakes and Northeast Regions, timber extraction resulted in the replacement of mature conifer forest with extensive tracts of very early successional habitat and eliminated cover for lynx and hare (Jackson 1961; Barbour *et al.* 1980; Belcher 1980; Irland 1982). Coniferous forests also were cleared for agriculture during this period. This sudden alteration of habitat likely resulted in sharp declines in snowshoe hare numbers over large areas, subsequently reducing Canada lynx numbers (Jackson 1961; Keener 1971; K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994). The impacts of logging conducted in the Northeast Region during the late 1800's continue to affect Canada lynx habitat (D. Degraff, pers. comm. 1994; J. Lanier, pers. comm. 1994).

Lynx populations have not increased in the Northeast Region despite some apparent improvements in habitat. Forested habitat in the Northeast has increased because of land-use changes during the past century (Irland 1982; Litvaitis 1993), and in some areas there may be a gradual upward trend in the coniferous component as spruce (*Picea* spp.) and fir (*Abies* spp.) regenerate beneath hardwood species (D. Degraff, pers. comm. 1994), but fragmentation of habitat apparently remains a factor in the continued absence of lynx populations in the Northeast Region (Litvaitis *et al.* 1991; W. Krohn, University of Maine, *in litt.* 1994; R. La Fond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994).

Historically, Canada lynx populations in the Northeast were periodically supplemented with transient or dispersing individuals from the north (Litvaitis *et al.* 1991; J. Lanier, pers. comm. 1994). However, over the past several decades, Canada lynx numbers also declined along southern portions of its range in Canada in response to overexploitation and clearing of forested habitat for agriculture, timber, and human settlement (Mills 1990; McAlpine and Heward 1993; Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). Today, diminished numbers of Canada lynx in southern Canada and the lack of functional dispersal routes from Canadian lynx populations to the Northeast Region have substantially restricted the opportunity for Canada lynx to recolonize any available habitat in the Northeast (Litvaitis *et al.* 1991; W. Krohn, University of Maine, *in litt.* 1994; R. La Fond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994; J. Lanier, pers. comm. 1994).

In the Northern and Southern Rocky Mountain Regions, the majority of Canada lynx habitat occurs on public lands. Currently, there are few activities on national forest lands generating the early successional timber stands important to snowshoe hares and Canada lynx (S. Blair, U.S. Forest Service, pers. comm. 1994). In areas of Washington, timber harvest on national forest and State lands is likely to exceed the recommended rate of harvest described in Canada lynx habitat management guidelines developed for the region (Washington Department of Wildlife 1993).

Forest fires naturally maintained mosaics of early successional forest stands forming ideal snowshoe hare and Canada lynx habitat (Todd 1985; Fischer and Bradley 1987; Quinn and Parker 1987). Suppression of forest fires in the West has allowed forests to mature, thereby reducing habitat suitability for snowshoe hares and Canada lynx (Brittell *et al.* 1989; Fox 1978; Koehler 1990; Washington Department of Wildlife 1993; T. Bailey, U.S. Fish and Wildlife Service, *in litt.* 1994; H. Golden, pers. comm. 1994).

In the Great Lakes Region, Northeast, and Colorado, clearing of forests for urbanization, ski areas, and agriculture has degraded or reduced the available suitable lynx habitat, reduced the prey base, and increased human disturbance and the likelihood of accidental trapping, shooting, or highway mortality (de Vos and Matel 1952; Harger 1965; Belcher 1980; Thiel and Hallowell 1988; Todd 1985; Thompson 1987; Harper *et*

al. 1990; Brocke *et al.* 1991; Thompson and Halfpenny 1991). In some areas, the rapid pace of subdivision for recreational home sites has been identified as a serious concern to maintaining the integrity of Northeastern forests (Harper *et al.* 1990).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The Service believes that an overharvest of Canada lynx during the 1970's and 1980's has reduced the potential for recovery of lynx populations in the contiguous United States and has reduced repopulation of areas of suitable habitat. Historically, lynx trapping provided a significant economic return in the fur trading industry (Quinn and Parker 1987; Hatler 1988). This economic incentive increases the threat of overexploitation of Canada lynx populations. Where exploitation is intense and recruitment is low, trapping can significantly depress lynx populations (Koehler and Aubry 1994). Overutilization of Canada lynx was clearly documented when lynx were substantially overharvested in response to unprecedented high pelt prices during the 1970's and 1980's, the effect of which is still evident today in the extremely low numbers of lynx in the contiguous United States and southern Canada (Bailey *et al.* 1986; B. Berg, Minnesota Department of Natural Resources, pers. comm. 1994; D. Mech, pers. comm. 1994; M. Novak, Ontario Ministry of Natural Resources, pers. comm. 1994; A. Todd, Alberta Department of Forestry, Lands, and Wildlife, pers. comm. 1994).

Ward and Krebs (1985) concluded that human-induced mortality is the most important mortality factor for Canada lynx populations. Trapping mortality has been shown to be entirely additive (i.e., in addition to natural mortality) rather than compensatory (taking the place of natural mortality) (Brand and Keith 1979). In Minnesota, trapping was estimated to account for 81 percent of known lynx mortality during cyclic lows and 58 percent of mortality during cyclic highs (Henderson 1978).

Additive trapping mortality of Canada lynx during the 1970's and 1980's represented an overexploitation that depleted the breeding stock of lynx populations in the United States and southern Canada, limiting the ability of lynx populations to subsequently increase and to repopulate areas of suitable habitat. Lynx populations may have become so severely depleted that they cannot reach their former densities during the periods of abundant prey and maximum reproductive success (Quinn and Parker 1987; Hatler 1988).

In response to concerns about substantially declining harvests during the 1970's and 1980's (indicating that lynx populations were being overexploited), Washington, Montana, Minnesota, Alberta, British Columbia, Manitoba, Ontario, Quebec, and Alaska severely restricted or closed their lynx harvest seasons (Bailey *et al.* 1986; Hatler 1988; Hash 1990; Washington Department of Wildlife 1993; S. Conn, *in litt.* 1990; M. DonCarlos, *in litt.* 1994; B. Giddings, *in litt.* 1994; R. McFetridge, Alberta Environmental Protection, *in litt.* 1994; I. McKay, *in litt.* 1994; M. Novak, pers. comm. 1994). Because of continued concern for lynx populations, neither Washington, Montana, nor Minnesota have relaxed their restrictions, and many Canadian provinces still maintain careful control of lynx harvest (Alberta Environmental Protection 1993; Washington Department of Wildlife 1993; M. DonCarlos, *in litt.* 1994; B. Giddings, *in litt.* 1994; R. McFetridge, *in litt.* 1994).

Where Canada lynx populations have been substantially reduced or extirpated in the contiguous United States, natural recolonization of suitable habitat will require migrating lynx from Canadian populations. The lynx population in portions of Quebec apparently has not yet fully recovered despite adequate, increasing hare populations (Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). Because of concern over a potentially declining lynx population, the British Columbia government has closed the season on Canada lynx for 3 years (A. Fontana, British Columbia Department of Wildlife, pers. comm. 1994).

Although overutilization is no longer an immediate concern, the adverse impacts of past overharvest continue to threaten Canada lynx survival and recovery in the contiguous United States.

C. Disease or Predation

Disease and predation are not known to be factors threatening Canada lynx.

D. The Inadequacy of Existing Regulatory Mechanisms

Although States provide the Canada lynx with protection from hunting and trapping, currently there are no regulatory mechanisms to protect lynx habitat from further deterioration.

Canada lynx are classified as endangered by Vermont (1972), New Hampshire (1980), Wisconsin (1972), Michigan (1987, as threatened in 1983), and Colorado (1975). Lynx are classified as threatened by Washington (1993). Utah has classified the lynx as a sensitive species. Two States officially classify them as extirpated (Pennsylvania (J. Belfonti, *in litt.* 1994) and Massachusetts (J. Cardoza, *in litt.* 1994)). Despite being classified as small game or furbearers, Canada lynx are fully protected from harvest by Maine (1967), New York (1967), Minnesota (1984), Wyoming (1973), and Oregon (E. Gaines, pers. comm. 1997). Canada lynx trapping seasons still occur in Montana and Idaho, but legal harvest is severely restricted. Idaho has a harvest quota of three lynx annually, while Montana currently has a statewide harvest quota of two.

On February 4, 1977, the Canada lynx was included in Appendix II of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). CITES is an international treaty established to prevent international trade that may be detrimental to the survival of plants and animals. However, CITES does not itself regulate take or domestic trade.

Habitat regulatory mechanisms specific to Canada lynx are limited. Although the U.S. Forest Service classifies lynx as a sensitive species within the contiguous United States, few national forests have developed population viability objectives or management guidelines required by the National Forest Management Act because of limited information about Canada lynx requirements.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Elevated levels of human access into forests are a significant threat to Canada lynx because they increase the likelihood of lynx encountering people, which may result in more lynx deaths by intentional and unintentional shooting, trapping, and being hit by automobiles (Hatler 1988; Thiel and Hallowell 1988; Brittell *et al.* 1989; Koehler and Brittell 1990; Brocke *et al.* 1991; Andrew 1992; Washington Department of Wildlife 1993; Brocke *et al.* 1993; M. Hunter, University of Maine, pers. comm. 1994). Human access into Canada lynx habitat in many areas has increased over the last several decades because of increased construction of roads and trails and the growing popularity of snowmobiles and other off-road vehicles. Poaching and the increased legal harvest of Canada lynx that occurs with greater access has been a concern in nearly every State and in many Canadian Provinces.

Human access is a particularly important factor during periods when Canada lynx populations are low and concentrated in localized refugia. If

such refugia were accessible, local lynx populations could be easily extirpated by trapping, particularly if there are incentives such as high pelt prices (Carbyn and Patriquin 1983; Ward and Krebs 1985; Bailey *et al.* 1986; J. Weaver, pers. comm. 1994; Koehler and Aubry 1994).

Traffic on highways has been shown to pose a considerable mortality risk to Canada lynx (Brocke *et al.* 1991; B. Ruediger, U.S. Forest Service, pers. comm. 1997). Dispersing or transient lynx are more vulnerable to traffic deaths than residents, because their movement over large areas increases their contact with roads.

Canada lynx may be displaced or eliminated when competitors (e.g., bobcat (*Lynx rufus*) or coyote (*Canis latrans*)) expand into its range (de Vos and Matel 1952; Parker *et al.* 1983; Quinn and Parker 1987; M. DonCarlos, pers. comm. 1994; D. Major, U.S. Fish and Wildlife Service, pers. comm. 1994; J. Weaver, pers. comm. 1994). The Canada lynx is at a competitive disadvantage against these other species because it is a specialized predator, whereas the bobcat and coyote are generalists able to feed on a wide variety of prey. Some biologists believe competition has played a significant role in the decline of Canada lynx (Brocke 1982; Parker *et al.* 1983; E. Bangs, U.S. Fish and Wildlife Service, pers. comm. 1994).

Competition between Canada lynx and other species may be facilitated through alteration of forests by timber harvest or other human activities. Modified habitat may be more suitable to Canada lynx competitors or may facilitate the establishment of a competitor after local extirpation of the lynx (McCord and Cardoza 1982; Quinn and Parker 1987).

The threats to resident lynx from legal trapping for other species are reduced in many regions because there is probably limited overlap in the ranges of bobcats or coyotes with the range of lynx (M. DonCarlos, pers. comm. 1994; K. Elowe, Maine Department of Inland Fisheries and Wildlife, pers. comm. 1994; J. Lanier, pers. comm. 1994; D. Mech, pers. comm. 1994; Maine Department of Inland Fisheries and Wildlife, *in litt.* 1997). Hunting seasons for bobcats may be a potential threat because of hunters' difficulty in distinguishing between bobcat and lynx.

Finding

Section 4(b)(3)(B)(iii) of the Act states that the Service may make warranted but precluded findings if it can demonstrate that an immediate proposed rule is precluded by other pending proposals and that expeditious progress is being made on other listing actions. According to Service policy, such species are assigned candidate status and given a listing priority number. Guidelines for assigning listing priorities were published in the **Federal Register** on September 21, 1983 (48 FR 43098). The guidelines describe a system for considering three factors in assigning a species a numerical listing priority on a scale of 1 to 12. The three factors are magnitude of threat (high or moderate to low), immediacy of threat (imminent or nonimminent), and taxonomic distinctiveness (monotypic genus, species, or subspecies/population). For a population, such as the Canada lynx, listing priority numbers of 3, 6, 9, or 12 are possible.

The Service believes that several limiting factors pose threats to the continued existence of Canada lynx in the contiguous United States, including: (1) Habitat loss and/or modification (due to human alteration primarily through timber harvest, road construction, and fire suppression); (2) overutilization from past commercial harvest (trapping) that has resulted in extremely low populations that remain subject to incidental capture from legal trapping of other furbearers; (3) inadequate regulatory mechanisms to protect the remaining lynx habitat; and, (4) other factors such as increased human access into suitable habitat (refugia) and human-induced changes in interspecific competition. The Service has determined that the overall magnitude of all threats to the small population of Canada lynx in the contiguous United States is high and the threats are ongoing, thus they are imminent. A listing priority of 3 consequently has been assigned for the Canada lynx population in the contiguous United States.

Region 6 has determined that listing of the Canada lynx is warranted, but development of a proposed rule at this time is precluded by work on other higher priority species. The Service will reevaluate this warranted but precluded finding within 12 months of the date of publication of this notice of finding. The Service also may reevaluate the finding immediately if significant new information becomes available in the next 12 months.

Before making a warranted but precluded finding, the Service must show that it is making expeditious progress on listing species. A congressionally imposed moratorium on listing species was lifted on April 26, 1996. Since that date the Service has completed 131 final determinations, including publication of final rules for endangered and threatened species and withdrawals of proposed rules. The Service believes these numbers show that expeditious progress is being made to list species within the resources available.

This warranted but precluded finding automatically elevates the Canada lynx to candidate species status. The Service will reevaluate this warranted but precluded finding 1 year from the date of the finding. If sufficient new data or information become available in the future regarding threats, status of the lynx, etc., the Service will reassess the status of the species.

The Service's 12-month finding contains more detailed information regarding the above decisions. A copy may be obtained from the Montana Field Office (see **ADDRESSES** section).

References Cited

A complete list of references cited is available upon request from the Montana Field Office (see **ADDRESSES** section).

Authors: The primary authors of this document are Lori Nordstrom, Anne Vandehey and Kevin Shelley (Montana Field Office); Jeri Wood (Boise Field Office); Chris Warren (Spokane Field Office); and Ted Thomas (Olympia Field Office).

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*)

Dated: May 21, 1997.

J. L. Gerst,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–13808 Filed 5–21–97; 2:46 pm]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970515117–7117–01; I.D. 050797D]

RIN 0648–AJ85

Proposed List of Fisheries for 1998

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes changes for 1998 to the List of Fisheries (LOF) required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 1998 reflects new information

on interactions between commercial fisheries and marine mammals. Under the MMPA, a commercial fishery is to be placed on the LOF in one of three categories based upon the level of serious injuries and mortalities that occur to marine mammals incidental to that fishery. The LOF informs the public of the level of interactions with marine mammals in various U.S. commercial fisheries and which fisheries are subject to certain provisions of the MMPA such as the requirement to register for Authorization Certificates.

DATES: Comments on the proposed rule must be received by August 25, 1997.

ADDRESSES: Send comments to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Comments regarding the burden-hour estimates or any other aspect of the collection of information requirements contained in this proposed rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robyn Angliss, Office of Protected Resources, 301–713–2322; Douglas Beach, Northeast Region, 508–281–9254; Charles Oravetz, Southeast Region, 813–570–5301; James Lecky, Southwest Region, 310–980–4015; Brent Norberg, Northwest Region, 206–526–6140; Steven Zimmerman, Alaska Region, 907–586–7235.

SUPPLEMENTARY INFORMATION:

Background

History of the List of Fisheries

Section 118 of the MMPA, as amended in 1994, requires the annual publication of a LOF placing all U.S. commercial fisheries into one of three categories based on the levels of incidental serious injury and mortality of marine mammals in the fishery. Proposed and final regulations implementing section 118 of the MMPA were published in 1995 (60 FR 31666, June 17, 1995, and 60 FR 45086, August 30, 1995, respectively). These regulations replaced those published to implement the old section 114 and established the procedures NMFS now uses to manage incidental interactions between marine mammals and U.S. commercial fisheries.

Definitions of the fishery classification criteria for Category I, II, and III fisheries are found in the implementing regulations for section 118 (50 CFR part 229). Because classification of fisheries in the LOF depends on the definitions of the criteria, the following explanation of the criteria is provided. Although this information is available in the preambles to the final rule implementing section 118 (60 FR 45086, August 30, 1995) and to the final LOF for 1996 (60 FR 67063, December 28, 1995), it is repeated here because of the importance of this information to understanding how fisheries are classified.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on the rate, in numbers of animals per year, of serious injuries and mortalities due to commercial fishing relative to the Potential Biological Removal (PBR) level for the each marine mammal stock.

Tier 1

If the total annual mortality and serious injury across all fisheries that interact with a stock is less than or equal to 10 percent of the PBR level of such a stock, then all fisheries interacting with this stock would be placed in Category III. Otherwise, these fisheries are subject to the next tier to determine their classification.

Tier 2—Category I

Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level.

Tier 2—Category II

Annual mortality and serious injury in a given fishery is greater than 1 percent and less than 50 percent of the PBR level.

Tier 2—Category III

Annual mortality and serious injury in a given fishery is less than or equal to 1 percent of the PBR level.

Tier 1, therefore, considers the cumulative fishery mortality and serious injury for a particular stock, while Tier 2 considers fishery-specific mortality for a particular stock. Additional details regarding how threshold percentages between the categories were determined are provided in the preamble to the final rule implementing section 118.

Requirements for Vessels Participating in Category I and II Fisheries

The primary functions of the LOF are to inform the public of the levels of interactions with marine mammals in various commercial fisheries and to identify fisheries for which efforts to reduce these interactions may be necessary. In addition, the LOF informs the fishing industry which fisheries are subject to certain provisions of the MMPA.

Registration

Fishers participating in Category I or II fisheries must be registered under the MMPA, as required by 50 CFR 229.4. Unless the Authorization Certificate program for a fishery is integrated and coordinated with existing fishery license, registration or permit systems and related programs, fishers must obtain a registration packet from NMFS and submit the completed registration form and the required registration fee to the NMFS Regional Office in which their fishery operates. Normally, NMFS will send the fisher an Authorization Certificate, program decal, and reporting forms within 60 days of receiving the registration form and registration fee.

NMFS has successfully integrated registration under the MMPA with state fishery registration in Washington, Oregon, Alaska, and certain New England fisheries and is actively pursuing integration with state fishery registration programs in North Carolina and California. The benefits of integration with existing programs have included a reduction or elimination of fees for some commercial fishers, a reduction in paperwork that must be completed by the fisher, and a reduction in paperwork that must be completed by NMFS.

Reporting

Vessel owners or operators, or fishers, in the case of non-vessel fisheries, in Category I, II, or III fisheries must comply with 50 CFR 229.6 and report all incidental mortalities and injuries of marine mammals during the course of commercial fishing operations to NMFS Headquarters. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear, or any animal that is released with fishing gear entangling, trailing or perforating any part of the body is considered injured and must be reported. Instructions for submission of reports are found at 50 CFR 229.6(a).

Observers

Fishers participating in Category I and II fisheries are required, upon request, to accommodate an observer aboard their vessels. Observer requirements may be found at 50 CFR 229.7.

Sources of Information Reviewed During Development of the Proposed LOF for 1997 and 1998

In 1996, few changes were made to the LOF for 1997, because little new information was available on the level of interaction between marine mammals and commercial fisheries. Instead, NMFS focused its analysis for the proposed LOF for 1997 on those fisheries that it committed to future review in the 1996 LOF. Similarly, the final LOF for 1997 (62 FR 33; January 2, 1997), focused only on certain fisheries NMFS had previously identified and used PBR levels from 1995.

In January 1997, NMFS made available draft Stock Assessment Reports (SARs) for 1996 (62 FR 3005; January 21, 1997). These SARs provide new estimates of total serious injury and mortality of marine mammals incidental to commercial fisheries and also provide new estimates of PBR levels for all U.S. stocks. Because these draft SARs provide the best available information on both the level of serious injury and mortality and the PBR levels, the proposed LOF for 1998 will be based on information provided in these documents. If information in the SARs changes as a result of public comments or additional review by the Scientific Review Groups, these updates will be incorporated in the final LOF for 1998.

Proposed Changes to the LOF

Marine mammal incidental serious injury and mortality information presented in the draft SARs was reviewed for all observed fisheries to determine whether proposed changes in fishery classification is warranted. Other sources of new information, such as documents provided to Take Reduction Teams, were also reviewed.

No changes to the classification of fisheries currently in the LOF are proposed in this LOF.

Pursuant to section 118, NMFS is required to determine the number of participants in each commercial fishery and the marine mammal species and/or stocks incidentally injured or killed in each fishery. The last comprehensive table that provided a list of all fisheries, the numbers of participants, and the interacting species/stocks was published in the final LOF for 1996 (December 28, 1995, 60 FR 67063). Because there were few changes to the LOF in 1997 (January 2, 1997, 62 FR 33), a comprehensive table was not published but was made available to people when requested. Because substantial new information has become available for construction of this proposed LOF for 1998, NMFS is now proposing the following changes to the comprehensive table listing all fisheries:

Changes Resulting From New Draft SARs

Draft SARs for 1996 were made available to the public for review and comment on January 21, 1997. The table in the LOF that lists all U.S. commercial fisheries, the numbers of participants in each fishery, and the marine mammal species and/or stocks incidentally killed or injured in each fishery was updated to include the following changes proposed in the draft SARs:

—The Gulf of Alaska stock of harbor seals was proposed to be designated as strategic.

—The stock formerly known as the Alaska harbor porpoise stock was proposed to be divided into three stocks: The Southeast Alaska stock, the Gulf of Alaska stock, and the Bering Sea stock.

—The Cook Inlet stock of beluga whales was proposed to be designated as strategic.

—The Western North Atlantic stock of white-sided dolphins was proposed to be designated as non-strategic.

In addition, the draft SARs for Alaska and for the Pacific provided updates to the numbers of participants in many commercial fisheries that operate in Alaska and in California, respectively. When possible, the number of participants provided in the table reflects the number of active permitholders, rather than the number of permitted fishers, to better indicate the level of effort in a fishery. An active permitholder is one that meets the minimum landing requirements under that permit. Solicitation of Public Comments on Particular Aspects of Certain Commercial Fisheries.

Since the publication of the final LOF for 1997, certain Take Reduction Teams and the draft SARs have highlighted two fisheries, the U.S. mid-Atlantic coastal gillnet and a tuna drift gillnet fishery that may incur serious injuries or mortalities of marine mammals. NMFS is interested in soliciting public comments on specific aspects of the prosecution of these fisheries to aid in determining whether any changes to the LOF are necessary.

U.S. Mid-Atlantic Coastal Gillnet Fishery: Description of the Fishery and Level of Incidental Serious Injury and Mortality

The U.S mid-Atlantic coastal gillnet fishery (including, but not limited to Atlantic croaker, Atlantic mackerel, Atlantic sturgeon, black drum, bluefish, herring, menhaden, scup, shad, striped bass, sturgeon, weakfish, white perch, yellow perch, dogfish and monkfish) as described in the LOF for 1997 (January 2, 1997, 62 FR 33) includes all gillnet fishing from 72°30′ W. long to the North Carolina-South Carolina border, except for gillnet fisheries in Category III that occur solely within bays, estuaries and rivers. This fishery was classified in Category II in the 1996 LOF, based on a level of incidental mortality and serious injury of mid-Atlantic coastal bottlenose dolphins determined through examination of stranded animals. Until 1995, this fishery had been largely unobserved and the only sources of information on the level of incidental mortality and serious injury were stranded animals and reports submitted by fishers.

New information on the level of incidental serious injury and mortality in the U.S. mid-Atlantic coastal gillnet fishery has recently become available to NMFS. The following describes this new information and specifically solicits comments on some aspects of this fishery.

Observer Data

The Northeast Fisheries Science Center presented preliminary data at a recent meeting of the Mid-Atlantic Take Reduction Team that estimated 192 harbor porpoise were killed annually in the observed portion of this fishery (NMFS, unpublished data). This estimate is thought to be a conservative estimate of the total mortality, because the observer effort was low (< 5 percent) and because fishing effort was calculated based on landings data obtained from individual state agencies from New York to North Carolina that may not represent total fishing effort. This level of incidental take may be more accurate for the segment of this fishery that targets dogfish and monkfish, because it is uncertain whether observer coverage in other segments of the fishery are representative of total fishing effort. The estimated serious injury and mortality of harbor porpoise in this segment of the fishery is under 50 percent of the PBR for harbor porpoise; thus, retaining this fishery in Category II at this time is justifiable based on extrapolations from the observer data.

Data from Stranded Marine Mammals

Since 1994, data on evidence of fishing interactions from stranded marine mammals has improved in certain mid-Atlantic states, particularly North Carolina and Virginia. This improvement in the available information has resulted from better training of stranding network volunteers in the recognition of scars and pathology associated with fishing

interactions and increases in beach survey and necropsy effort. Two reports that provide guidelines for determining whether a marine mammal likely died as a result of fishery interactions have been published in recent years. These improvements in the stranding network will greatly enhance the confidence with which NMFS may propose changes in the LOF based on stranding data alone.

Between 1994 and early March 1997, data were collected from stranded dead bottlenose dolphins in North Carolina that indicated an average of 17.9 (58 total interactions divide by 3.25 years) bottlenose dolphins strand annually with identifiable evidence of fishing interactions (NMFS, unpublished data). Of these, net marks or attached gear was found on an average of 10.5 stranded bottlenose dolphins per year, of which an average of 4 per year had evidence of monofilament gillnet. The majority of these strandings are of bottlenose dolphins from the mid-Atlantic coastal stock (NMFS, unpublished data). This level of incidental mortality (4 stranded bottlenose dolphins per year with evidence of monofilament gillnet) justifies placement of this fishery in Category II but not in Category I.

The evidence from stranding data clearly indicates that the mid-Atlantic coastal bottlenose dolphin stock has consistent interactions with monofilament gillnet fisheries. The majority of the strandings of bottlenose dolphins (both those with evidence of fishery interactions and those without evidence of fishery interactions) occur from February through May in North Carolina. This temporal distribution of strandings appears to correlate directly with nearshore gillnet effort in state waters for species such as weakfish and dogfish (NMFS, unpublished data).

Solicitation of Public Comments

NMFS has two sources of data on the level of serious injury and mortality in the mid-Atlantic coastal gillnet fishery: (1) Observed mortalities of harbor porpoise on vessels targeting monkfish and dogfish; and (2) evidence from bottlenose dolphin strandings that were likely caused by interactions with gillnet vessels. NMFS currently cannot use these data sources to evaluate takes in the entire U.S. mid-Atlantic coastal gillnet fishery, as it is currently defined, because the data sources appear to reflect interactions of different species in different segments of the fishery. NMFS specifically solicits public comments on the following:

—Whether it is appropriate to divide the U.S. mid-Atlantic coastal gillnet fishery into different components.

—If it is appropriate to separate the U.S. mid-Atlantic coastal gillnet fishery into different components, what criteria should be used to make that separation.

—In addition, NMFS seeks other relevant information from the public including specific geographic and temporal distribution of nearshore gillnet fisheries, including target species and type of gear used (e.g., mesh size, twine diameter).

U.S. Mid-Atlantic Tuna Drift Gillnet

NMFS has received reports that a new fishery using drift gillnet to target tuna may operate in U.S. mid-Atlantic waters between New Jersey and Virginia. Reports indicate that this fishery targets primarily yellowfin and albacore tunas using a mesh size smaller than that typically used in the Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagics drift gillnet fishery. Because these reports are unsubstantiated to date, NMFS specifically solicits information on the following:

—The specific geographic location of the fishery.

—The type of gear, target species, and specific methods of fishing.

—Marine mammal species/stocks that are injured or killed incidental to this fishery.

—The number of participants in this fishery.

—In addition, NMFS seeks public comment on whether this fishery should be considered part of another fishery or a separate fishery.

Information provided on these issues may be used to determine whether this is an active fishery that should be included on the final LOF for 1998.

List of Fisheries

The following two tables list the commercial fisheries of the United States according to their assigned categories under Section 118. The estimated number of vessels is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants in a fishery, the number from the 1996 LOF is used. The information on which marine mammal species/stocks are involved is based on observer data, logbook data, stranding reports, and fisher's reports. Only those species or stocks known to incur injury or mortality are listed. There are a few fisheries that are in Category II and have no recent documented interactions with marine mammals. Justifications for placement of these fisheries are found in the final LOF for 1996 (December 28, 1995; 60 FR 45086).

An asterisk (*) indicates that the stock is a strategic stock; a plus (+) indicates that the stock is listed as threatened or endangered under the Endangered Species Act.

TABLE 1.—LIST OF FISHERIES

[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Category I:		
Gillnet fisheries:		
CA angel shark/halibut and other species large mesh (>3.5in) set gillnet fishery.	58	Harbor porpoise, central CA. Common dolphin, short-beaked, CA/OR/WA. Common dolphin, long-beaked CA. California sea lion, U.S. Harbor seal, CA. Northern elephant seal, CA breeding.

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
CA/OR thresher shark/swordfish drift gillnet fishery	130	Steller sea lion, Eastern U.S.*+ Sperm whale, CA to WA.*+ Dall's porpoise, CA/OR/WA. Pacific white sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Bottlenose dolphin, CA/OR/WA offshore. Common dolphin, short-beaked, CA/OR/WA. Common dolphin, long-beaked, CA. Northern right whale dolphin, CA/OR/WA. Short-finned pilot whale, CA/OR/WA.* Baird's beaked whale, CA/OR/WA. Mesoplodont beaked whales, CA to WA.* Cuvier's beaked whale, CA/OR/WA. Pygmy sperm whale, CA/OR/WA.* California sea lion, U.S. Harbor seal, CA. Northern elephant seal, CA breeding. Harbor porpoise, OR/WA coastal. Humpback whale, CA/OR/WA-Mexico. Minke whale, CA/OR/WA.*
Category II:		
Gillnet fisheries:		
AK Prince William Sound salmon drift gillnet	518	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Harbor seal, GOA.* Pacific white-sided dolphin, central. North Pacific. Harbor porpoise, GOA. Dall's porpoise, AK.
AK Peninsula/Aleutians salmon drift gillnet fishery	164	Northern fur seal, North Pacific. Harbor seal, GOA. Harbor seal, Bering Sea. Harbor porpoise, Bering Sea. Dall's porpoise, AK. Northern (Alaska) sea otter, Pacific.
AK Peninsula/Aleutian Island salmon set gillnet	109	Steller sea lion, Western U.S.*+ Harbor porpoise, Bering Sea.
Southeast Alaska salmon drift gillnet fishery	452	Steller sea lion, Eastern U.S.*+ Harbor seal, Southeast AK. Pacific white-sided dolphin, central North Pacific. Harbor porpoise, Southeast Alaska. Dall's porpoise, AK. Humpback whale, central North Pacific.*+
AK Cook Inlet drift gillnet	577	Steller sea lion, Western U.S.*+ Harbor seal, GOA.* Harbor porpoise, GOA. Dall's porpoise, AK.
AK Cook Inlet salmon set gillnet	625	Steller sea lion, Western U.S.*+ Harbor seal, GOA.* Harbor porpoise, GOA. Beluga, Cook Inlet.*
AK Yakutat salmon set gillnet	147	Harbor seal, Southeast AK.
AK Kodiak salmon set gillnet	173	Harbor seal, GOA.* Harbor porpoise, GOA.
AK Bristol Bay drift gillnet	1,882	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Harbor seal, Bering Sea. Beluga, Bristol Bay. Gray whale, Eastern North Pacific. Spotted seal, AK. Pacific white-sided dolphin, central. North Pacific.
AK Bristol Bay set gillnet	967	Harbor seal, Bering Sea. Beluga, Bristol Bay. Gray whale, Eastern North Pacific. Northern fur seal, North Pacific.
AK Metlakatla/Annette Island salmon drift gillnet	60	None documented.

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
WA Puget Sound Region salmon drift gillnet fishery (includes all inland waters south of U.S.-Canada border and eastward of the Bonilla-Tatoosh line—Treaty Indian fishing is excluded).	900	Harbor porpoise, inland WA. Dall's porpoise, CA/OR/WA. Harbor seal, WA inland.
Purse seine fisheries:		
CA anchovy, mackerel, tuna purse seine	150	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	65	Pilot whales, short-finned, CA/OR/WA.
AK Southeast salmon purse seine	373	Humpback whale, central North Pacific.*+
Trawl fisheries:		
AK pair trawl	2	None documented.
Longline fisheries:		
OR swordfish floating longline fishery	2	None documented.
OR blue shark floating longline fishery	1	None documented.
Category III:		
Gillnet fisheries:		
AK Prince William Sound set gillnet	22	Steller sea lion, Western U.S.*+ Harbor seal, GOA.*
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,690	None documented.
AK roe herring and food/bait herring gillnet	16	None documented.
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA, OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less.	341	None documented.
AK miscellaneous finfish set gillnet	9	Steller sea lion, Western U.S.*+
Hawaii gillnet	115	Bottlenose dolphin, Hawaiian. Spinner dolphin, Hawaiian.
Purse seine, beach seine, round haul and throw net fisherie:		
AK salmon purse seine (except Southeast Alaska, which is in Category II).	763	Harbor seal, GOA.*
AK salmon beach seine	8	None documented.
AK roe herring and food/bait herring purse seine	480	None documented.
AK roe herring and food/bait herring beach seine	7	None documented.
AK Metlakatla purse seine	10	None documented.
AK octopus/squid purse seine	6	None documented.
CA herring purse seine	100	Bottlenose dolphin, CA coastal. California sea lion, U.S. Harbor seal, CA.
CA sardine purse seine	120	None documented.
CA squid purse seine	145	California sea lion, U.S.
AK miscellaneous finfish purse seine	7	None documented.
AK miscellaneous finfish beach seine	1	None documented.
WA salmon purse seine	440	None documented.
WA salmon reef net	53	None documented.
WA, OR herring, smelt, squid purse seine or lampara	130	None documented.
WA (all species) beach seine or drag seine	235	None documented.
HI purse seine	18	None documented.
HI opelu/akule net	16	None documented.
HI throw net, cast net	47	None documented.
Dip net fisheries:		
WA, OR smelt, herring dip net	119	None documented.
CA squid dip net	115	None documented.
Marine aquaculture fisheries:		
WA, OR salmon net pens	21	California sea lion, U.S.
CA salmon enhancement rearing pen	>1	None documented.
OR salmon ranch	1	None documented.
Troll fisheries:		
AK salmon troll	1,278	Steller sea lion, Eastern U.S.*+
CA/OR/WA salmon troll	4,300	None documented.

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
AK north Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.	1,354	None documented.
HI trolling, rod and reel	1,795	None documented.
Guam tuna troll	50	None documented.
Commonwealth of the Northern Mariana Islands tuna troll	50	None documented.
American Samoa tuna troll	<50	None documented.
HI net unclassified	106	None documented.
Longline/set line fisheries:		
AK state waters sablefish long line/set line	240	None documented.
Miscellaneous finfish/groundfish longline/set line	1,220	Harbor seal, GOA.* Harbor seal, Bering Sea. Northern elephant seal, CA breeding. Dall's porpoise, AK. Steller sea lion, Western U.S. Harbor seal, Southeast AK.
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line.	140	Hawaiian monk seal, HI.*+ Humpback whale, Central North Pacific.*+ Risso's dolphin, Hawaiian. Bottlenose dolphin, Hawaiian.
WA, OR North Pacific halibut longline/set line	350	None documented.
AK southern Bering Sea, Aleutian Islands, and Western Gulf of Alaska sablefish longline/set line (federally regulated waters).	226	Northern elephant seal, CA breeding. Killer whale, resident. Killer whale, transient. Steller sea lion, western U.S. Pacific white-sided dolphin, central North Pacific.
AK halibut longline/set line (state and Federal waters)	2,396	Steller sea lion, Western U.S.*+
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented.
AK octopus/squid longline	2	None documented.
CA shark/bonito longline/set line	10	None documented.
Trawl fisheries:		
WA, OR, CA shrimp trawl	300	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet).	48	None documented.
AK Gulf of Alaska groundfish trawl	209	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Harbor seal, GOA.* Dall's porpoise, AK. Northern elephant seal, CA breeding.
AK Bering Sea and Aleutian Islands groundfish trawl	186	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Killer whale, resident. Killer whale, transient. Pacific white-sided dolphin, central North Pacific. Harbor porpoise, Bering Sea. Harbor seal, Bering Sea. Harbor seal, GOA.* Bearded seal, AK. Ringed seal, AK. Dall's porpoise, AK. Ribbon seal, AK. Northern elephant seal, CA breeding. Northern (Alaska) sea otter, Pacific. Walrus, Pacific.
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	8	None documented.
AK miscellaneous finfish otter or beam trawl	391	None documented.
AK food/bait herring trawl	3	None documented.
WA, OR, CA groundfish trawl	585	Steller sea lion, Western U.S.*+ Northern fur seal, North Pacific.* Pacific white-sided dolphin, central North Pacific. Dall's porpoise, CA/OR/WA. California sea lion, U.S. Harbor seal, OR/WA coast.
Pot, ring net, and trap fisheries:		
AK crustacean pot	1,511	None documented.

TABLE 1.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Pacific Ocean]

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
AK Bering Sea, GOA finfish pot	486	Harbor seal, GOA.* Harbor seal, Bering Sea. Northern (AK) sea otter, Pacific.
WA, OR, CA sablefish pot	176	None documented.
WA, OR, CA crab pot	1,478	None documented.
WA, OR shrimp pot & trap	254	None documented.
CA lobster, prawn, shrimp, rock crab, fish pot	608	None documented.
OR, CA hagfish pot or trap	25	None documented.
HI lobster trap	15	Hawaiian monk seal, HI.*+
HI crab trap	22	None documented.
HI fish trap	19	None documented.
HI shrimp trap	5	None documented.
Handline and jig fisheries:		
AK North Pacific halibut handline and mechanical jig	119	None documented.
AK other finfish handline and mechanical jig	598	None documented.
AK octopus/squid handline	2	None documented.
WA groundfish, bottomfish jig	679	None documented.
HI aku boat, pole and line	54	None documented.
HI inshore handline	650	Bottlenose dolphin, HI.
HI deep sea bottomfish	434	Hawaiian monk seal, HI.*+
HI tuna	144	Rough-toothed dolphin, HI. Bottlenose dolphin, HI. Hawaiian monk seal, HI.*+
Guam bottomfish	< 50	None documented.
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented.
American Samoa bottomfish	<50	None documented.
Harpoon fisheries:		
CA swordfish harpoon	228	None documented.
Pound net/weir fisheries:		
AK Southeast Alaska herring food/bait pound net	4	None documented.
WA herring brush weir	1	None documented.
Bait pens:		
WA/OR/CA bait pens	13	None documented.
Dredge fisheries:		
Coastwide scallop dredge	106	None documented.
Dive, hand/mechanical collection fisheries:		
AK abalone	44	None documented.
AK dungeness crab	2	None documented.
AK herring spawn-on-kelp	314	None documented.
AK urchin and other fish/shellfish	17	None documented.
AK clam hand shovel	53	None documented.
AK clam mechanical/hydraulic fishery	104	None documented.
WA herring spawn-on-kelp	4	None documented.
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented.
CA abalone	111	None documented.
CA sea urchin	583	None documented.
HI squiding, spear	267	None documented.
HI lobster diving	6	None documented.
HI coral diving	2	None documented.
HI handpick	135	None documented.
WA shellfish aquaculture	684	None documented.
WA, CA kelp	4	None documented.
HI fish pond	10	None documented.
Commercial passenger fishing vessel (charter boat) fisheries:		
AK, WA, OR, CA commercial passenger fishing vessel	>17,000 (16,276 AK only).	None documented.
AK octopus/squid ''other''	19	None documented.
HI ''other''	114	None documented.
Live finfish/shellfish fisheries:		
CA finfish and shellfish live trap/hook-and-line	93	None documented.

*Marine mammal stock is strategic.

+Stock is listed as threatened or endangered under the ESA, or as depleted under the MMPA, or is proposed to be listed as strategic in the draft SARs for 1996.

List of Abbreviations Used in Table 1

AK—Alaska
CA—California
HI—Hawaii
GOA—Gulf of Alaska
OR—Oregon
WA—Washington

TABLE 2.—LIST OF FISHERIES

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Category I:		
Gillnet fisheries:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet.	15	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Sperm whale, WNA.*+ Dwarf sperm whale, WNA.* Pygmy sperm whale, WNA.* Cuvier's beaked whale, WNA.* True's beaked whale, WNA.* Gervais' beaked whale, WNA.* Blainville's beaked whale, WNA.* Risso's dolphin, WNA. Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* White-sided dolphin, WNA. Common dolphin, WNA.* Atlantic spotted dolphin, WNA.* Pantropical spotted dolphin, WNA.* Striped dolphin, WNA. Spinner dolphin, WNA. Bottlenose dolphin, WNA offshore.* Harbor porpoise, GME/BF.*
Northeast multispecies sink gillnet (including species as defined in the Multispecies Fisheries Management Plan and spiny dogfish and monkfish).	341	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Minke whale, Canadian east coast. Killer whale, WNA. White-sided dolphin, WNA. Striped dolphin, WNA. Bottlenose dolphin, WNA offshore. Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic. Common dolphin. Fin whale. Spotted dolphin. False killer whale. Harp seal.
Longline fisheries:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.	361	Humpback whale, WNA.*+ Minke whale, Canadian east coast. Risso's dolphin, WNA. Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* Common dolphin, WNA.* Atlantic spotted dolphin, WNA.* Pantropical spotted dolphin, WNA. Striped dolphin, WNA. Bottlenose dolphin, WNA offshore.* Bottlenose dolphin, GMX Outer Continental Shelf. Bottlenose dolphin, GMX Continental Shelf Edge and Slope. Atlantic spotted dolphin, Northern GMX. Pantropical spotted dolphin, Northern GMX. Risso's dolphin, Northern GMX. Harbor porpoise, GME/BF.*
Trap/pot fisheries—lobster:		
Gulf of Maine, U.S. mid-Atlantic lobster trap/pot	13,000	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Fin whale, WNA.* Minke whale, Canadian east coast. White-sided dolphin, WNA. Harbor seal, WNA.

TABLE 2.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Category II:		
Gillnet fisheries:		
U.S. mid-Atlantic coastal gillnet fishery	>655	Humpback whale, WNA.*+ Minke whale, Canadian east coast. Bottlenose dolphin, WNA offshore.* Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Gulf of Maine small pelagics surface gillnet	133	Humpback whale, WNA.*+ White-sided dolphin, WNA. Harbor seal, WNA.
Southeastern U.S. Atlantic shark gillnet fishery	10	Bottlenose dolphin, WNA coastal.* North Atlantic right whale, WNA.*+
Trawl fisheries:		
Atlantic squid, mackerel, butterfish trawl	620	Common dolphin, WNA.* Risso's dolphin, WNA.* Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* White-sided dolphin, WNA.
Haul seine fisheries:		
North Carolina haul seine	unknown	Bottlenose dolphin, WNA coastal.* Harbor porpoise, GME/BF.*
Stop net fisheries:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal.*
Category III:		
Gillnet fisheries:		
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet.	32	Humpback whale, WNA.*+ Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Long Island Sound inshore gillnet	20	Humpback whale, WNA.*+ Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Delaware Bay inshore gillnet	60	Humpback whale, WNA.*+ Bottlenose dolphin, WNA coastal.*+ Harbor porpoise, GME/BF.*
Chesapeake Bay inshore gillnet	45	None documented.
North Carolina inshore gillnet	94	None documented.
Gulf of Mexico inshore gillnet (black drum, sheepshead, weakfish, mullet, spot, croaker).	Unknown	None documented.
Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet (includes waters of North Carolina).	1,285	Minke whale, Canadian east coast. Harbor porpoise, GME/BF.* Bottlenose dolphin, WNA coastal.*+
Gulf of Mexico coastal gillnet (includes mullet gillnet fishery in LA and MS).	Unknown	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine.*
Southeastern U.S. Atlantic coastal gillnet	Unknown	Bottlenose dolphin, WNA coastal.*+
Florida east coast, Gulf of Mexico pelagics king and Spanish mackerel gillnet.	271	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine.*
Trawl fisheries:		
North Atlantic bottom trawl	1,052	Long-finned pilot whale, WNA.* Short-finned pilot whale, WNA.* White-sided dolphin, WNA. Striped dolphin, WNA. Bottlenose dolphin, WNA offshore.*
Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.	>18,000	Bottlenose dolphin, WNA coastal.*+
Gulf of Maine northern shrimp trawl	320	None documented.
Gulf of Maine, Mid-Atlantic sea scallop trawl	215	None documented.
Gulf of Maine, Southern North Atlantic, Gulf of Mexico coastal herring trawl.	5	None documented.
Mid-Atlantic mixed species trawl	>1,000	None documented.
Gulf of Mexico butterfish trawl	2	Atlantic spotted dolphin, Northern GMX. Pantropical spotted dolphin, Northern GMX.
Georgia, South Carolina, Maryland whelk trawl	25	None documented.
Calico scallops trawl	200	None documented.
Bluefish, croaker, flounder trawl	550	None documented.

TABLE 2.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Crab trawl	400	None documented.
U.S. Atlantic monkfish trawl	Unknown	Common dolphins, WNA.*
Marine aquaculture fisheries:		
Finfish aquaculture	48	Harbor seals, WNA.
Shellfish aquaculture	Unknown	None documented.
Purse seine fisheries:		
Gulf of Maine Atlantic herring purse seine	30	Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic.
Mid-Atlantic menhaden purse seine	22	Bottlenose dolphin, WNA coastal.*+
Gulf of Maine menhaden purse seine	50	None documented.
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Northern GMX coastal.
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine	Unknown	None documented.
U.S. mid-Atlantic hand seine	> 250	None documented.
Longline/hook-and-line fisheries:		
Gulf of Maine tub trawl groundfish bottom longline/hook-and-line.	46	Harbor seal, WNA. Gray seal, Northwest North Atlantic.
Southeastern U.S. Atlantic, Gulf of Mexico snapper-grouper and other reef fish bottom longline/hook-and-line.	3,800	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	124	None documented.
Gulf of Maine, U.S. mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	26,223	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico & U.S. mid-Atlantic pelagic hook-and-line/harpoon.	1,446	None documented.
Trap/pot fisheries—lobster and crab:		
Gulf of Maine, U.S. mid-Atlantic mixed species trap/pot	100	North Atlantic right whale, WNA.*+ Humpback whale, WNA.*+ Minke whale, Canadian east coast. Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic.
U.S. mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot.	30	None documented.
U.S. mid-Atlantic eel trap/pot	>700	None documented.
Atlantic Ocean, Gulf of Mexico blue crab trap/pot	20,500	Bottlenose dolphin, WNA coastal.* Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine.* West Indian manatee, FL.*+
Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot.	750	West Indian manatee, FL.*+
Stop seine/weir/pound fisheries:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	North Atlantic right whale, WNA.* Humpback whale, WNA.*+ Minke whale, Canadian east coast. Harbor porpoise, GME/BF.* Harbor seal, WNA. Gray seal, Northwest North Atlantic.
U.S. mid-Atlantic mixed species stop/seine/weir (except the North Carolina roe mullet stop net).	500	None documented.
U.S. mid-Atlantic crab stop seine/weir	2,600	None documented.
Dredge fisheries:		
Gulf of Maine, U.S. mid-Atlantic sea scallop dredge	233	None documented.
U.S. mid-Atlantic offshore surfclam and quahog dredge	100	None documented.
Gulf of Maine mussel	> 50	None documented.
U.S. mid-Atlantic/Gulf of Mexico oyster	7,000	None documented.
Haul seine fisheries:		
Southeastern U.S. Atlantic, Caribbean haul seine	150	None documented.
Beach seine fisheries:		
Caribbean beach seine	15	West Indian manatee, FL.+
Dive, hand/mechanical collection fisheries:		
Gulf of Maine urchin dive, hand/mechanical collection	> 50	None documented.
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.

TABLE 2.—LIST OF FISHERIES—Continued

[Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean]

Description of fishery	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Commercial passenger fishing vessel (charter boat) fisheries: Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	None documented.

*Marine mammal stock is strategic

+Stock is listed as threatened or endangered under the ESA, or as depleted under the MMPA, or is proposed to be listed as strategic in the draft SARs for 1996.

List of Abbreviations Used in Table 2

FL—Florida
GA—Georgia
GME/BF—Gulf of Maine/Bay of Fundy
GMX—Gulf of Mexico
NC—North Carolina
SC—South Carolina
TX—Texas
WNA—Western North Atlantic

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed LOF for 1998, if adopted would not have a signficant economic impact on a substantial number of small entities as follows:

Under existing regulations certain fishers must register, obtain an Authorization Certificate, and pay a fee of $25. Such a certificate authorizes the taking of certain marine mammals incidental to commercial fishing operations. Currently, approximately 14,000 fishers are registered. Registration of 12,400 fishers has been coordinated with existing state or Federal registration programs, so only approximately 1,600 fishers must register separately under this program. This proposed rule, if adopted, would not require the registration of additional fishers. The application fee, with respect to expected revenues, is not considered significant because it represents under 0.01 percent of the total revenue. As a result, a regulatory flexibility analysis was not prepared.

This action proposes changes to the current List of Fisheries and reflects new information on commercial fisheries, marine mammals and interactions between commercial fisheries and marine mammals. This proposed list informs the public which U.S. commercial fisheries may be required in 1998 to comply with certain parts of the MMPA including requirements to register for Authorization Certificates.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

This proposed rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act.

The collection of information required for reporting of marine mammal injuries or mortalities to NMFS and for registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control numbers 0648–0292 (0.15 hours per report) and 0648–0293 (0.25 hours per registration). Those burdens are not expected to change significantly if this proposed rule is adopted and may actually decrease if additional registration system are integrated with existing programs. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Dated: May 20, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–13818 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 62, No. 101

Tuesday, May 27, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Request for Reinstatement, of a Previously Approved Collection for Which Approval Has Expired

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 103–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Agricultural Research Service's (ARS) intention to request reinstatement, of a previously approved collection, the Continuing Survey of Food Intakes by Individuals, for which approval has expired.

DATES: Comments on this notice must be received on or before July 31, 1997.

ADDITIONAL INFORMATION OR COMMENTS: Contact Alanna J. Moshfegh, Research Leader, Food Surveys Research Group, Beltsville Human Nutrition Research Center, Agricultural Research Service, U.S. Department of Agriculture, 4700 River Road, Unit 83, Riverdale, MD 20737, (301) 734–8457.

SUPPLEMENTARY INFORMATION:

Title: Continuing Survey of Food Intakes by Individuals.

OMB Number: 0518–0020.

Expiration Date of Approval: January 31, 1997.

Type of Request: Reinstatement, of a previously approved collection, the Continuing Survey of Food Intakes by Individuals, for which approval has expired.

Abstract: USDA has been conducting nationwide food surveys since the 1930's as one means of fulfilling its responsibility to ensure the health and well-being of Americans through improved nutrition. USDA food consumption surveys measure the levels and shifts in the food and nutrient content and the nutritional adequacy of U.S. diets over time, and provide other information pertinent to understanding diets and their determinants.

The Continuing Survey of Food Intakes by Individuals (CSFII) is a major component of the National Nutrition Monitoring and Related Research Program (NNMRRP), established by the National Nutrition Monitoring and Related Research Act of 1990 (Public Law 101–445). The CSFII addresses the requirement of the 1990 Act for continuous monitoring of the dietary and nutritional status of the U.S. population and trends with respect to such status by obtaining information on food intakes by individuals.

The proposed Supplemental Children's Survey to the Continuing Survey of Food Intakes by Individuals 1994–96 is in direct response to the Food Quality Protection Act of 1996 (Pub. L. 104–170), which mandates USDA to conduct food consumption surveys that will provide adequate data on consumption patterns of infants and children. To the extent practicable, the procedures shall include the collection of data on food consumption patterns of a statistically valid sample of infants and children.

The primary public policy applications of USDA's food consumption survey include evaluating the adequacy of American diets in relationship to scientific and Federal dietary recommendations and goals. Critical applications include monitoring the dietary status of at-risk population subgroups including children; estimating exposure to pesticide residues, food additives, and contaminants; and monitoring and evaluating food use across the population specifically as it relates to food safety issues. Other key applications include assessing the nutritional impact of Federal food assistance programs; developing food fortification, enrichment, and labeling policies and assessing the nutritional impact of those policies; and assessing demand for agricultural products. Timely food consumption data are essential for meeting the information needs of these critical applications.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 75 minutes per response.

Respondents: Non-institutional infants and children residing in private households for intake surveys.

Estimatd Number of Respondents: 4,800 over 1 year.

Estimatd Total Annual Burden on Respondents: 6,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Alanna J. Moshfegh, Research Leader, Food Surveys Research Group at (301) 734–8457.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or forms of information technology. Comments may be sent to: Alanna J. Moshfegh, Food Surveys Research Group, Beltsville Human Nutrition Research Center, Agricultural Research Service, U.S. Department of Agriculture, 4700 River Road, Unit 83, Riverdale, MD 20737. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Beltsville, MD, April 18, 1997.

K. Darwin Murrell,

Director, Beltsville Area, Agricultural Research Service.

[FR Doc. 97–13703 Filed 5–23–97; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 970508107–7107–01]

RIN 0610–ZA04

Research and Evaluation, National Technical Assistance—Request for Proposals; Notice of Correction

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Notice; correction.

SUMMARY: In the Research and Evaluation, National Technical Assistance—Request for Proposal, notice document FR Doc. 97–12492, beginning on page 26192 in the issue of Monday, May 12, 1997, make the following correction:

On page 26193 beginning in the first column, and ending after the second full paragraph in the third column, the request for proposal titled ''Leveraging Capital for Defense Adjustment Infrastructure Assistance'' was inadvertently listed under the National Technical Assistance Program. This request should be changed and listed instead under the Research and Evaluation Program (page 26196, first column).

All of the previously published criteria that apply to the Research and Evaluation Program now apply to the request for proposal titled ''Leveraging Capital for Defense Adjustment Infrastructure Assistance.'' The correction impacts the types of entities eligible to submit proposals under this particular request and the local match required.

Dated: May 21, 1997.

Wilbur F. Hawkins,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 97–13863 Filed 5–22–97; 10:32 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–504]

Erasable Programmable Read Only Memories From Japan: Termination of Suspended Antidumping Duty Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of suspended antidumping duty investigation.

SUMMARY: On December 19, 1996, the Department received a letter from counsel to Intel Corporation, Advanced Micro Devices, Inc., and National Semiconductor Corporation (''the petitioners''). The letter notified the Department that the petitioners have no further interest in the suspended investigation on Erasable Programmable Read Only Memory (EPROM) Semiconductors from Japan and that they were, therefore, withdrawing the petition. On January 8, 1997, the Department requested parties to the proceeding to provide comments on the Department's proposal to terminate the suspended antidumping duty investigation on EPROMs from Japan. The Department is now terminating this suspended investigation.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Steven Presing or Eugenia Chu, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0194 and (202) 482–3964, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1986, the antidumping investigation of Erasable Programmable Read Only Memories (EPROMs) from Japan, was suspended pursuant to an agreement by substantially all of the Japanese producers to eliminate dumping. Erasable Programmable Read Only Memories (EPROMs) from Japan: Suspension of Investigation, 51 Fed. Reg. 28253 (August 6, 1986); amended, 56 Fed. Reg. 37523 (August 7, 1991).

On December 19, 1996, the U.S. and Japanese semiconductor industries signed a Statement Regarding Effective and Expeditious Antidumping Measures (the Statement) and accompanying Memorandum of Understanding (MOU) intended to expedite handling future dumping investigations. The industries have agreed to independently collect cost and price data and to submit this data to the appropriate government agency within 14 days of the filing of a new antidumping investigation in the United States or Japan. Both the Statement and the MOU are conditioned upon revocation of the EPROM Suspension Agreement and termination of the EPROM antidumping investigation.

On December 19, 1996, Intel Corporation, Advanced Micro Devices, Inc., and National Semiconductor Corporation, the petitioners in the suspended investigation, notified the Department in writing that they had no further interest in the suspended investigation on EPROMs from Japan and that they were, therefore, withdrawing the petition. Petitioners served interested parties with copies of the no interest letter.

On January 8, 1997, the Department notified interested parties in writing of its intent to terminate the suspended investigation and requested comments. We received comments from interested parties concerning the proposed termination on February 6, 1997.

Scope of Investigation

The products covered by this investigation are erasable programmable read only memories which are a type of memory integrated circuit that is manufactured using variations of Metal Oxide-Semiconductor (MOS) process technology, including both Complementary (CMOS) and N-Channel (NMOS). The products include processed wafers, dice and assembled EPROMs produced in Japan and imported into the United States from Japan. Finished EPROMs are provided for in the Tariff Schedules of the United States Annotated (TSUSA) under item 687.7445. Unassembled EPROMs, including unmounted chips, wafers, and dice, are provided for under TSUSA item 687.7405. Additionally, certain Flash memory devices based on EPROM semiconductor technology are later-developed products within the scope of the suspension investigation and suspension agreement on EPROMs from Japan. 57 Fed. Reg. 11599 (April 6, 1992).

Termination of Investigation

On December 19, 1996, the U.S. Semiconductor Industry Association (SIA) and the Electronic Industries Association of Japan (EIAJ) signed the Statement and the MOU agreeing, through 1999, voluntarily to collect and maintain product specific cost, home market price, and U.S. export price data on certain flash EPROM products exported from Japan to the United States, and, if an antidumping investigation were initiated on these products, to provide the collected data to the Department within 14 days of receipt of a questionnaire. The joint Statement, issued by the SIA and the EIAJ, establishes an expedited collection and reporting system similar to that created under the 1991 EPROM Suspension Agreement, 56 Fed. Reg. 37523 (August 7, 1991).

On December 19, 1996, the petitioners in the suspended investigation, notified the Department in writing that they have no further interest in the suspended investigation on EPROMs from Japan and that they were, therefore, withdrawing their petition. In the no interest letter, which was served on interested parties, counsel for the petitioners stated that the EPROM suspension agreement has served to substantially alleviate the problem of dumping of EPROMs in the U.S. market for the past ten years. Given the experience of the past ten years, and noting that the Japanese EPROM producers as members of the EIAJ, support the issued Statement, the petitioners believe the termination of the 1991 EPROM suspension agreement is appropriate.

Based on petitioners' expression of no interest, the Department notified interested parties in writing of its intent to terminate the suspended investigation and requested comments. Comments were filed on February 6, 1997 by Fujitsu Limited, Hitachi, Ltd., Matsushita Electronics Corporation, Mitsubishi Electric Corporation, Sanyo Electric Co., Ltd., Sharp Corporation, and Toshiba Corporation. All commenters expressed their support for the proposed termination.

A review under section 751(b) of the Tariff Act of 1930, as amended, is normally the mechanism for the termination of a suspended investigation. However, the events surrounding the Statement and MOU and petitioners' request to terminate the suspended investigation, as described above, are consistent with the substantive and procedural requirements of the statute and regulations. Therefore, the unique circumstances of this case render any further proceeding unnecessary. Thus, based on the affirmative statement by substantially all of the domestic producers that they have no further interest in the suspended investigation, which was supported in the comments filed by interested parties, the Department is terminating the suspended investigation.

Dated: May 7, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–13810 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Roller Chain, Other Than Bicycle, From Japan: Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative reviews.

SUMMARY: On December 4, 1996, the Department of Commerce (the Department) published the final results of three administrative reviews of the antidumping finding on Roller Chain, Other Than Bicycle, From Japan. The reviews covered two manufacturers/exporters of the subject merchandise to the United States during the period of review (POR) April 1, 1992 through March 31, 1993, six manufacturers/exporters of the subject merchandise during the POR April 1, 1993 through March 31, 1994, and seven manufacturers/exporters of the subject merchandise during the POR April 1, 1994 through March 31, 1995. In order to clarify the cash deposit instructions for the 1992–1993 and 1993–1994 reviews, we are amending the final results of these reviews.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Jack Dulberger or Zev Primor, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1996, the Department published the final results (61 FR 64328) of administrative reviews of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226, April 12, 1973) for the POR April 1, 1992 through March 31, 1993, and April 1, 1993 through March 31, 1994. The 1992–1993 review covered the two manufacturers/exporters Daido Kogyo Co., Ltd. (Daido) and Enuma Chain Mfg. Co., Ltd. (Enuma). The 1993–1994 review covered six manufacturers/exporters: Daido, Enuma, Izumi Chain Manufacturing Co., Ltd. (Izumi), Hitachi Metals Techno Ltd. (Hitachi), Pulton Chain Co., Ltd. (Pulton), and R.K. Excel. Hitachi and Pulton made no shipments of the subject merchandise during the period of review and the review for this time period was rescinded with respect to these companies. (*See* Preliminary Results of the 1993–1994 review; 61 FR 28171). On December 4, 1996, the Department also published the final review results for the POR April 1, 1994 through March 31, 1995, covering the same six companies and Peer Chain Company (Peer) (61 FR 64322). This review was rescinded for Peer, Pulton, and Hitachi because they did not ship to the United States during the 1994–1995 POR (*see* Preliminary Results of the 1994–1995 review; 61 FR 28168).

The Department is amending the final results of the administrative reviews for the 1992–1993 and 1993–1994 PORs to clarify the cash deposit instructions for these reviews.

Applicable Law

Unless otherwise indicated, all citations to the statute are references to the provisions on January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Scope of the Review

Imports covered by the reviews are shipments of roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle,'' as used in these reviews includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain. These reviews also cover leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. These reviews further cover chain model numbers 25 and 35. Roller chain is

currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7315.11.00 through 7619.90.00. HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Clarification of Cash Deposit Instructions

Since final results for a more current review period, April 1, 1994 through March 31, 1995, were also published on December 4, 1996, the cash deposit instructions contained in that notice (61 FR 64322) supersede the cash deposit instructions contained in the December 4, 1996, final results for the reviews covering April 1, 1992 through March 31, 1993, and April 1, 1993 through March 31, 1994 (61 FR 64328) and will apply to all shipments of subject merchandise to the United States entered, or withdrawn from warehouse, for consumption on or after December 4, 1996. The dumping margins resulting from the April 1, 1992 though March 31, 1993 POR and the April 1, 1993 through March 31, 1994 POR will have no effect on the cash deposit rate for any firm. The results of the 1993–1994 review will be used for liquidation of shipments entered, or withdrawn from warehouse, for consumption during the April 1, 1993, through March 31, 1994 POR only. The results of the 1992–1993 review will be used for liquidation of shipments entered, or withdrawn from warehouse, for consumption during the April 1, 1992 through March 31, 1993 POR only.

This notice is in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.28.

Dated: May 13, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–13811 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–083]

Notice of Court Decision: Certain Iron Metal Castings From India

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of court decision.

SUMMARY: On May 7, 1997, the United States Court of International Trade (CIT) affirmed the International Trade Administration's remand determination regarding the application of Item (d) of the Illustrative List of Export Subsidies (Annex I of the Agreement on Subsidies and Countervailing Measures) to the Indian Government's International Price Reimbursement Scheme.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Robert Copyak, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786 or (202) 482–2209.

SUPPLEMENTARY INFORMATION:

Background

In the 1985 administrative review of *Certain Iron-Metal Castings From India; Final Results of Countervailing Duty Administrative Review*, 55 FR 50747 (December 10, 1990), the Department had interpreted Item (d) of the Illustrative List of Exports Subsidies as requiring that under the Indian Government's International Price Reimbursement Scheme (IPRS), ocean freight be included in the determination of the international price of pig iron. Under the IPRS program, the Indian Government rebates to castings exporters the difference between the price of domestically-sourced pig iron and the international price. However, in *Creswell Trading Co.* v. *United States*, Slip Op. 96–137 (CIT Aug. 15, 1996), the court again remanded the final results of the 1985 review and, among other things, directed the Department to exclude ocean freight in determining the international price of pig iron. The Department's subsequent remand determination reflected the Court's instructions and was affirmed in *Creswell Trading Co.* v. *United States*, Slip Op. 97–54 (CIT May 7, 1997).

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e) the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's opinion in *Creswell Trading Co.* v. *United States*, Slip Op. 97–54 (CIT May 7, 1997), constitutes a decision not in harmony with the Department's final results of countervailing duty administrative review. Publication of this notice fulfills the *Timken* requirement.

Accordingly, the Department will continue to suspend liquidation pending the expiration of the period of appeal, or, if appealed, upon a ''conclusive'' court decision.

Dated: May 14, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–13809 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–559–001]

Certain Refrigeration Compressors From the Republic of Singapore; Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of extension of time limit for Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for its preliminary results in the administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. The review covers the period April 1, 1995, through March 31, 1996.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Jean Kemp, AD/CVD Enforcement, Group III, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for the completion of the preliminary results to no later than December 2, 1997, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA). (See Memorandum from Joseph A. Spetrini to Robert S. LaRussa on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the URAA (19 U.S.C. 1675(a)(3)(A)).

Dated: May 20, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–13812 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Notice: Solicitation of Business Development Center Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice; solicitation of business development center applications for Atlanta, Chicago I, Chicago II, Austin, Manhattan/Bronx, Nassau/Suffolk, Queens, Orange County, Phoenix and Las Vegas.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the Minority Business Development Centers (MBDC) listed in this document.

The purpose of the MBDC Program is to provide business development assistance to persons who are members of groups determined by MBDA to be socially or economically disadvantaged, and to business concerns owned and controlled by such individuals. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

In accordance with the Interim Final Policy published in the **Federal Register** on May 31, 1996, the cost-share requirement for the MBDCs listed in this notice has been increased to 40%. The Department of Commerce will fund up to 60% of the total cost of operating an MBDC on an annual basis. The MBDC operator is required to contribute at least 40% of the total project cost (the ''cost-share requirement''). Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof. In addition to the traditional sources of an MBDC's cost-share contribution, the 40% may be contributed by local, state and private sector organizations. It is anticipated that some organizations may apply jointly for an award to operate the center. For administrative purposes, one organization must be designated as the recipient organization.

ADDRESSES: Completed application packages should be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230.

DATES: The closing date for applications for each MBDC is July 7, 1997.

PRE-APPLICATION CONFERENCE: A pre-application conference will be held for each MBDC. Contact the appropriate regional office for further information.

Proper identification is required for entrance into any federal building.

SUPPLEMENTARY INFORMATION: The following are MBDCs for which applications are solicited: Atlanta; Chicago I, Chicago II, Austin, Manhattan/Bronx, Nassau/Suffolk, Queens, Orange County, Phoenix, and Las Vegas:

1. *MBDC Application:* Atlanta.
   Metropolitan Area Serviced: Atlanta, Georgia.
   Award Number: 04–10–97007–01.
   Pre-Application Conference: For the exact date, time and place, contact the Atlanta Regional Office at (404) 730–3300.
   For Further Information and an Application Package, Contact: Robert Henderson, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $471,927. The total Federal amount is $283,156 and is composed of $276,250 plus the Audit Fee amount of $6,906. The application must include a minimum cost share of 40%, $188,771 in non-federal (cost-sharing) contributions for a total project cost of $471,927.

2. *MBDC Application:* Chicago I, South.
   Metropolitan Area Serviced: Chicago, Illinois.
   Award Number: 05–10–97001–01
   Pre-Application Conference: For the exact date, time and location, contact the Chicago Regional Office at (312) 353–0182.
   For Further Information and an Application Package, Contact: David Vega, Regional Director.

The boundaries for Chicago I, South are designated as follows:

- Northern Boundary: bounds on the north by the City of Chicago dividing line of Madison Street.
- Southern Boundary: bounds south by the City of Chicago dividing line of Madison Street Southwest to Harlem Avenue (Route 43); south to Interstate 55 (Stevenson Expressway) Southwest to Route 80; including Grundy and Will Counties but excluding Kankakee, Livingston and LaSalle Counties.
- Eastern Boundary: bounds on the east by Lake Michigan and the Indiana State Line.
- Western Boundary: bounds on the west by (Route 39); excluding Boone County.

Cities within this geographic area include, but are not limited to: Oak Lawn, Cicero, Summit, Bridgeview, Evergreen Park, Blue Island, Calumet City, Mokena, Harvey, Chicago Heights and Joliet, Illinois.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $460,834. The total Federal amount is $276,500 and is composed of $269,756 plus the Audit Fee amount of $6,744. The application must include a minimum cost share of 40%, $184,334 in non-federal (cost-sharing) contributions for a total project cost of $460,834.

3. *MBDC Application:* Chicago II, North.
   Metropolitan Area Serviced: Chicago, Illinois.
   Award Number: 05–10–97001–02.
   Pre-Application Conference: For the exact date, time and location, contact the Chicago Regional Office at (312) 353–0182.
   For Further Information and an Application Package, Contact: David Vega, Regional Director.

The boundaries for Chicago II, North are designated as follows:

- Northern Boundary: bounds on the north by the Wisconsin State Line.
- Southern Boundary: bounds on the south by the City of Chicago dividing line of Madison Street then Southwest on Harlem Avenue (Route 43); South to Route 55 (Stevenson Expressway); Southwest to Interstate 80; excluding Lasalle County.
- Western Boundary: bounds on the west by Interstate 39; excluding Boone County.
- Eastern Boundary: bounds on the east by Lake Michigan and the Indiana State Line.

Cities within this geographic area include, but are not limited to: Maywood, Brookfield, Oak Park, Bolingbrook, Bellwood, DesPlaines, Palatine, Skokie, Waukegan and Elgin, Illinois.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $460,834. The total Federal amount is $276,500 and is composed of $269,756 plus the Audit

Fee amount of $6,744. The application must include a minimum cost share of 40%, $184,334 in non-federal (cost-sharing) contributions for a total project cost of $460,834.

4. *MBDC Application:* Austin.
Metropolitan Area Serviced: Austin, Texas.
Award Number: 06–10–97008–01.
Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.
For Further Information and an Application Package, Contact: Bobby Jefferson, Acting Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $314,778. The total Federal amount is $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share of 40%, $125,911 in non-federal (cost-sharing) contributions for a total project cost of $314,778.

5. *MBDC Application:* Manhattan/Bronx.
Metropolitan Area Serviced: Manhattan/Bronx, New York.
Award Number: 02–10–97006–01.
Pre-Application Conference: For the exact date, time and place, contact the New York Regional Office at (212) 264–3262.
For Further Information and an Application Package, Contact: Heyward Davenport, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $444,167. The total Federal amount is $266,500 and is composed of $260,000 plus the Audit Fee amount of $6,500. The application must include a minimum cost share of 40%, $177,667 in non-federal (cost-sharing) contributions for a total project cost of $444,167.

6. *MBDC Application:* Nassau/Suffolk.
Metropolitan Area Serviced: Nassau/Suffolk, New York.
Award Number: 02–10–97007–01.
Pre-Application Conference: For the exact date, time and place, contact the New York Regional Office at (212) 264–3262.
For Further Information and an Application Package, Contact: Heyward Davenport, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $314,778. The total Federal amount is $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share of 40%, $125,911 in non-federal (cost-sharing) contributions for a total project cost of $314,778.

7. *MBDC Application:* Queens.
Metropolitan Area Serviced: Queens, New York.
Award Number: 02–10–97008–01.
Pre-Application Conference: For the exact date, time and place, contact the New York Regional Office at (212) 264–3262.
For Further Information and an Application Package, Contact: Heyward Davenport, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 30, 1998, is estimated at $416,667. The total Federal amount is $250,000 and is composed of $245,300 plus the Audit Fee amount of $4,700. The application must include a minimum cost share of 40%, $166,667 in non-federal (cost-sharing) contributions for a total project cost of $416,667.

8. *MBDC Application:* Orange County.
Metropolitan Area Serviced: Orange County, California.
Award Number: 09–10–97009–01.
Pre-Application Conference: For the exact date, time, and location, contact the San Francisco Regional Office at (415) 744–3001.
For Further Information and an Application Package, Contact: Melda Cabrera, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $333,333. The total Federal amount is $200,000 and is composed of $195,122 plus the Audit Fee amount of $4,878. The application must include a minimum cost share of 40%, $133,333 in non-federal (cost-sharing) contributions for a total project cost of $333,333.

9. *MBDC Application:* Las Vegas.
Metropolitan Area Serviced: Las Vegas, Nevada.
Award Number: 09–10–97011–01.
Pre-Application Conference: For the exact date, time, and location, contact the San Francisco Regional Office at (415) 744–3001.
For Further Information and an Application Package, Contact: Melda Cabrera, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $281,875. The total Federal amount is $169,125 and is composed of $165,000 plus the Audit Fee amount of $4,125. The application must include a minimum cost share of 40%, $112,750 in non-federal (cost-sharing) contributions for a total project cost of $281,875.

10. *MBDC Application:* Phoenix.
Metropolitan Area Serviced: Phoenix, Arizona.
Award Number: 09–10–97010–01.
Pre-Application Conference: For the exact date, time, and location, contact the San Francisco Regional Office at (415) 744–3001.
For Further Information and an Application Package, Contact: Melda Cabrera, Regional Director.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1997 to October 31, 1998, is estimated at $314,778. The total Federal amount is $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share of 40%, $125,911 in non-federal (cost-sharing) contributions for a total project cost of $314,778 dolphins.

Standard Paragraphs

The following information and requirements are applicable to the listed MBDCs: Atlanta, Chicago I, Chicago II, Manhattan/Bronx, Nassau/Suffolk, Queens, Orange County, Phoenix, and Las Vegas.

The funding instrument for this project will be a cooperative agreement. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing

business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). In accordance with Interim Final Policy published in the **Federal Register** on May 31, 1996, the scoring system will be revised to add ten (10) bonus points to the application of community-based organizations. Each qualifying application will receive the full ten points. Community-based applicant organizations are those organizations whose headquarters and/or principal place of business within the last five years have been located within the geographic service area designated in the solicitation for the award. Where an applicant organization has been in existence for fewer than five years or has been present in the geographic service area for fewer than five years, the individual years of experience of the applicant organization's principals may be applied toward the requirement of five years of organization experience. The individual years of experience must have been acquired in the geographic service area which is the subject of the solicitation. An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 40% of the total project cost through non-federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the GRA, unless that collection of information displays a currently valid OMB Control Number. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, § 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, § 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, § 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if

applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: May 19, 1997.

Frances B. Douglas,

Alternate Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–13748 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042497C]

Marine Mammals; Permit No. 1019 (P619)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Scientific research permit amendment.

SUMMARY: Notice is hereby given that a request for amendment of scientific research permit no. 1019 submitted by Dr. Catherine Schaeff, Department of Biology, American University, 4400 Massachusetts Ave., NW., Washington, D.C. 20016, has been granted to import up to 2860 tissue and biopsy skin samples taken from southern right whales (*Eubalaena australis)* from South America, South Africa, and Australia.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2289 (508/281–9250);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5301).

SUPPLEMENTARY INFORMATION: On February 27, 1997, notice was published in the **Federal Register** (62 FR 8929) that an amendment to permit no. 1019 issued October 16, 1996 (61 FR 55134), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq*.), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq*.), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Issuance of this amendment, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 15, 1997.

Ann D. Terbush

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–13816 Filed 5–23–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting cancellation.

SUMMARY: On May 1, 1997, 62 FR 2376, the Department of Defense published a notice to announce a meeting of the Defense partnership Council to be held May 28, 1997. This notice is to announce that the meeting is cancelled due to conflicts in members' schedules.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Boulevard, Suite B–200, Arlington, VA 22209–5144, (703) 696–1450.

Dated: May 20, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13754 Filed 5–23–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Task Force on Defense Reform

ACTION: Notice.

SUMMARY: Notice is hereby given of an initial meeting of the Task Force on Defense Reform (the Task Force). The meeting will be open to the public. The purpose of the meeting is to discuss the task, approach, timetable, and background information. This notice is less than the customary fifteen days since it is critical that the Task Force meet as soon as possible to ensure that findings and recommendations are cognizant of and coordinated with the Quadrennial Review process and the proceedings of the National Defense Panel.

The Task Force was recently established to make recommendations to the Secretary of Defense and Deputy Secretary of Defense on alternatives for organizational reforms, reductions in management overhead, and streamlined business practices in the Department of Defense, with emphasis on the Office of the Secretary of Defense, the Defense Agencies and the DoD Field Activities, and the military departments.

DATES: Thursday, May 29, 1997, at 1:00 p.m.

ADDRESSES: Room 3E928, the Pentagon, Washington, DC. Seating is limited. Must call Mr. Blair Ewing at the number listed in **FOR FURTHER INFORMATION CONTACT** section below to arrange for access to Pentagon.

FOR FURTHER INFORMATION CONTACT:

Contact Mr. Blair Ewing, Designated Federal Officer, Room 1B728, Office of the Under Secretary of Defense (Comptroller), Pentagon, Washington, DC 20301. Telephone: (703) 695–9016. Interested parties should call Mr. Ewing before 10:00 a.m., Thursday, May 29, 1997.

Dated: May 20, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13755 Filed 5–23–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Impact Statement for the Relocation of the U.S. Army Chemical School and the U.S. Army Military Police School to Fort Leonard Wood, Missouri—Record of Decision

AGENCY: Department of the Army, DoD.

ACTION: Notice of record of decision.

Table of Contents

1. Decision

In my capacity as the Assistant Secretary of the Army for Installations, Logistics and Environment, and based on the analysis contained in the Final Environmental Impact Statement (FEIS) for the Relocation of the U.S. Army Chemical School and the U.S. Army Military Police School and their associated units and support elements to Fort Leonard Wood (FLW), Missouri, I have determined the FEIS adequately assesses the impacts of the proposed action and related alternatives on the biological, physical, and cultural environment. Therefore, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, the Army will proceed with construction of facilities at FLW to support the relocation of the Chemical School and Military Police School and shall relocate the schools, their associated units and support elements, and associated personnel to FLW in accordance with the Army's Preferred Alternative and the general implementation schedules described in the FEIS.

The Defense Base Closure and Realignment Act of 1990 (1990 Base Closure Act), Public Law 101–510, requires the closing of Fort McClellan (FMC), Alabama, and the relocation of the Chemical School and Military Police School to FLW. In addition, the 1990 Base Closure Act requires the Chemical Defense Training Facility (CDTF) to continue to operate at FMC until the capability to operate a replacement facility at FLW has been achieved.

The 1990 Base Closure Act also exempts the Commission's decision-making process from provisions of the National Environmental Policy Act (NEPA). The law also relieves the Department of Defense (DoD) from the NEPA requirement to consider the need for closing, realigning or transferring functions, and from looking at alternative installations to close or realign. However, the Department of the Army must evaluate the environmental impact of implementing actions that are necessary to relocate specified missions and operations. The environmental and socioeconomic impacts of facility construction and future training and operations must be analyzed and documented. Therefore, my decision to approve implementation was based on consideration of whether or not the Army has adequately considered the environmental effects of implementing the relocation decision. In addition, my review considered whether the Army has developed and considered an alternative to avoid or minimize environmental impacts and has or will comply with all environmental laws and regulations during the implementation. The Army will conduct fog oil training within the constraints of the existing Missouri Department of Natural Resources Air Quality Permit #0695–010, or other permits in existence at the time the training takes place, until such time a permit is issued that will accommodate the full implementation of the preferred alternative.

My decision considered: the mitigation commitments outlined in the FEIS; transcripts of the scoping meeting; the public hearing on the Draft EIS; all written comments received during the public comment and the 30-day post-filing periods; and the National Academy of Sciences Committee report (see paragraph 5.14). In addition, I have considered the results of continued coordination with interested federal, state and local agencies and public interest groups in making my decision.

I have reviewed the FEIS for the Relocation of the U.S. Army Chemical and the U.S. Army Military Police Schools to Fort Leonard Wood, Missouri, and associated correspondence received in response to coordination of this document, and have decided that the plan as recommended in the FEIS should be executed and that the construction associated with the proposed action should proceed. I find the plan outlined in the Executive Summary of the FEIS to be technically sound, environmentally sustainable, socially and economically acceptable, and in agreement with the 1990 Base Closure Act. Any new or additional missions will be evaluated in compliance with NEPA and all other federal, state, and local laws and regulations prior to deciding to implement at FLW.

2. Proposed Action

The proposed action is described in the FIS in the context of three primary elements including: (1) Training missions to be relocated to FLW; (2) facilities required to support the relocated missions; and (3) the population to be relocated to FLW as a result of the action. The Military Police School and the Chemical School have the mission to provide education and training of selected U.S. military, foreign military and civilian personnel. Chemical School students are trained to: detect and identify Nuclear, Biological and Chemical (NBC) agents; protect themselves and others from harm caused by NBC agents; employ smoke and other obscurants to increase soldier combat effectiveness and survivability; and construct and detonate flame field expedient deterrents to protect our troops in battle. Military Police School students are trained in traditional police functions as well as specialized military operations such as battlefield circulation, area security, and prisoner-of-war handling.

The action also includes relocation of units and missions to FLW that are required to support the Chemical School and Military Police School. All activities evaluated in the FEIS are considered ''directed relocations'' which are specifically identified by, or required to implement, the 1990 Base Closure Act requirements. Additional facilities (buildings, specialized training facilities, and designated training land areas) are required at FLW to meet the needs of the Chemical School and Military Police School. Implementation of the action results in completion of approximately $200 million in military construction projects, and an increase of approximately 9,000 persons, including permanent party military personnel and dependent family members, military and civilian student trainees, and civilian employees.

3. Alternatives

In accordance with NEPA and Council for Environmental Quality (CEQ) regulations, the Army developed and evaluated a reasonable range of alternatives for implementing the mandated BRAC at FLW. Alternatives were developed for each of the primary elements of the action including relocation of training missions, provisions of required support facilities, and relocation of related personnel. A summary of alternatives considered in the FEIS is provided below.

3.1 Training Alternatives

The FEIS alternatives formulation process was initiated with a review of over 70 Programs of Instruction (POIs) that define training activities of the Chemical School and Military Police School. Training activities were grouped into 11 categories, which included a total of 43 specific training goals. The EIS team then identified and considered a total of 204 training method alternatives for accomplishing these training goals at FLW. Volume IV of the FEIS provides information regarding alternative training methods considered, and the rationale that led to selection of those methods to be analyzed in detail in the FEIS. This alternative formulation process resulted in further considered of a No Action Alternative, and three training goal implementation alternatives. The training implementation alternatives included the: 1) Relocate Current Practice (RCP) Alternative; 2) Optimum Training Method (OPTM) Alternative; and 3) Environmentally Preferred Training Method (EPTM) Alternative.

Analysis of the No Action Alternatives as it relates to the training element of the FEIS considered the impact of not implementing individual training goals associated with the Chemical School and Military Police School missions. Failing to implement any of the 43 training goals identified and considered in the FEIS was not reasonable because training in each of these goals is essential to meeting mission requirements. Therefore, the No Action Alternative is not evaluated in detail in the FEIS. However, the No Action Alternative (the continuation of ongoing and planned (pre-BRAC) activities at FLW) is used as the environmental baseline against which the impacts of each training implementation alternative were evaluated.

The RCP Alternative evaluates relocating all training methods to FLW as they are currently (at the time of the BRAC decision) conducted at FMC. The training methods defined in the RCP create a baseline against which the alternative methods were evaluated. The OPTM Alternative was formulated to identify and evaluate the impact of implementing training methods which best met a combination of initial environmental and training/operating efficiency screening criteria as documented in Volume IV of the FEIS. The EPTM Alternative was formulated to evaluate the impact of implementing the combination of training methods which received the highest score based solely on consideration of environmental screening criteria.

3.2 Supporting Facility Alternatives

Implementation of the planned BRAC action at FLW will require facilities to support the training requirements of the relocated schools and to support the housing, administrative and support requirements of increased personnel. The Army's analysis for this action included a detailed review of facility requirements for all activities. This process resulted in identification of Chemical School and Military Police School facility requirements in excess of 1.6 million square feet of space and numerous range and training area requirements. Detailed analysis of existing facilities at FLW resulted in identification of approximately 800,000 square feet of existing facility space that could be used to meet approximately half of the relocation requirements. This left a shortfall of an additional 800,000 square feet of facility space that must be met through new construction.

The FEIS documents the rationale for consideration of a No Action Alternative and three facility implementation alternatives. Each of the implementation alternatives included a unique BRAC Land Use and Facility Plan (LU&FP) which identified modifications to FLW's existing approved land use plan required to meet needs of the relocated schools, and a facility construction program which identified the type, extent, and location of facility development associated with each alternative.

Under the No Action Alternative for this study element, FLW would continue to implement its pre-BRAC land use and facility development plan, but no new facilities would be provided in response to BRAC actions. The analyses documented in the FEIS, demonstrates that FLW can support approximately 50 percent of the identified requirements, and that opportunities to lease space off-post are very limited. None of the specialized training facilities such as the Chemical Defense Training Facility, radiation laboratory, crime scenes and other unique facilities for the two schools are available. Therefore, since BRAC legislation directs the relocation, the No Action Alternative is not reasonable, and, therefore, is not analyzed in further detail in the FEIS, other than to serve as an environmental baseline against which the impacts of each facilities implementation alternative are evaluated.

The ''Army's Proposed LU&FP (Combined Headquarters and Instruction) Alternative'' locates the headquarters for the three schools (existing Engineer School at FLW, and the Military Police School and Chemical School to be relocated) in Hoge Hall, Lincoln Hall and a new General Instruction Facility (GIF) complex. The ''Alternative 1 LU&FP (Combined Headquarters)'' is based on the concept of collocating the headquarters for each of the three schools (existing Engineer School at FLW and both schools to be relocated) in Hoge Hall and Lincoln Hall. However, three separate ''school houses'' would be provided, thereby allowing the individual specialty branches to retain more autonomy. The ''Alternative 2 LU&FP (Separate Headquarters)'' would locate the headquarters for the Chemical School and the Military Police School in separate buildings, but would consolidate general instruction and library facilities in the ''800-area'' of the FLW post. The Engineer School would remain in Hoge, Lincoln and Clark halls.

3.3 Population Relocation Alternatives

The third and final element of the alternative formulation process involved consideration of the population to be relocated to FLW as a result of the proposed action. The action is expected to result in a total population increase of approximately 9000 persons to the FLW area, including permanent party military personnel and their dependent family members, military and civilian student trainees, and civilian employees. The FEIS considered a No Action Alternative and three implementation alternatives for this element including a: (1) Total Early Move Alternative; (2) Total Late Move Alternative; and (3) Phased Move Alternative.

The FEIS concludes the No Action Alternative, as it applies to relocation of personnel, is not reasonable. However, the No Action Alternative was used to compare population conditions and related impacts at the current (pre-BRAC) level at FLW, to those expected to occur under each of the BRAC action implementation scenarios. Regarding the three implementation alternatives, the FEIS concludes the Total Early Move and Total Late Move alternatives were not reasonable because they resulted in facility utilization problems and disruption of ongoing training programs. Accordingly, all implementation scenarios considered in detail in the FEIS are based on the Phased Move Alternative. The Phased Move Alternative would involve relocation of personnel (and related missions and equipment) on a phased schedule. This phrasing is expected to occur over a period of approximately 9

months, tied to the availability of renovated or new facilities and completion of training classes at FMC, and startup of the relocated classes at FLW.

4. Selection of the Army's Preferred Alternative

In accordance with CEQ regulations (40 CFR 1505.2), the FEIS and this ROD identify the Army's Preferred Alternative which includes implementation of (1) the Optimum Training Method (OPTM) Alternative; (2) the Army's Proposed LU&FP (Combined Headquarters and Instruction) Alternative; and (3) the Phased Move Alternative. As stated above, the Army determined that the only reasonable method for relocating the personnel associated with the Chemical School and the Military Police School was as described under the Phased Move Alternative. Therefore, that element is part of the Army's preferred method for implementing the total action. The rationale for the selection of the Army's Preferred Alternative relative to the training missions to be relocated and required support facilities is summarized below, and further documented in the FEIS.

34.1 Training Element Decision

For the training element of the proposed action, the FEIS impact analysis documents that the RCP Alternative would result in substantially higher adverse environmental impacts (taken as a whole) than either the OPTM Alternative or the EPTM Alternative, and that the RCP Alternative would result in a lower level of training effectiveness than the OPTM Alternative. Therefore, the RCP Alternative was dropped from further consideration prior to completion of the cumulative impact analysis section of the FEIS. This focused the decision on how to conduct training at FLW between the OPTM and EPTM alternatives.

The analysis indicates selection of the EPTM Alternative would reduce the annual quantity of fog oil used, thereby reducing the extent of impacts on the environment (including some reduction in the degree of impact to air quality and threatened and endangered species). However, significant adverse impacts to both air quality and threatened and endangered species may still occur under both the OPTM and EPTM alternatives, and the nature and extent of mitigation required under the OPTM and EPTM alternatives are very similar. Furthermore, implementation of the EPTM Alternative would reduce the overall training effectiveness relative to the OPTM Alternative in six of 43 training goals as discussed in the FEIS. The most significant reduction in training effectiveness under the EPTM Alternative would be associated with Training Goal 7.4 (Fog Oil Training Field Proficiency Test), where the reduced levels of fog oil usage would result in soldiers that are not as highly trained under realistic field conditions as the OPTM Alternative provides. Proficiency in deployment and maintenance of smoke screen cover over specified areas under battlefield conditions is critically important to the successful performance of certain military missions, and to protect our troops and defend our national interests and those of our allies. In consideration of these factors, and all other information provided by the FEIS analysis, I selected the OPTM Alternative as the preferred method of implementing training activities to be conducted by the Chemical School and the Military Police School at FLW.

4.2 Supporting Facility Element Decision

The FEIS analysis revealed the environmental impacts of the Alternative 2 LU&FP (Separate Headquarters) were clearly more adverse than either the Army's Proposed LU&FP (Combined Headquarters and Instruction) or the Alternative 1 LU&FP (Combined Headquarters). Furthermore, the Alternative 2 LU&FP did not provide any significant operational advantages over the other two alternatives. Therefore, the Alternative 2 LU&FP was dropped from further consideration prior to completion of the cumulative impact analysis section of the FEIS. The analysis also showed that the Army's Proposed LU&FP (Combined Headquarters and Instruction) has less overall adverse environmental impacts than the Alternative 1 LU&FP. In addition, the FEIS analysis documents that the Army's Proposed LU&FP (Combined Headquarters and Instruction): (1) is the most effective plan with regard to utilization of existing available facilities at FLW to meet requirements; (2) has the lowest construction cost of any of the implementation alternatives; (3) provides the highest degree of collocation of similar facilities; (4) provides the greatest long-term operational cost savings; and (5) provides the highest potential for synergistic training activities at FLW. In consideration of these factors, and all information provided by the FEIS analysis, I selected the Army's Proposed LU&FP (Combined Headquarters and Instruction) as the preferred method for providing facilities required to support the relocation of the Chemical School and the Military Police School to FLW.

5. Impacts and Mitigation Commitments

Fifteen natural, cultural, sociological, and economic resource categories, plus a category to consider the operational efficiency of planned actions, were established to provide a framework for identifying baseline conditions and determining the impact of alternatives in the FEIS. A summary of the type and extent of impacts anticipated as a result of implementing the Army's Preferred alternative at FLW is provided below for each analysis category. Impacts discussed represent the cumulative impact of implementing all elements of the Army's Preferred Alternative, in association with past, present, and reasonably foreseeable future actions as discussed in detail in the FEIS. Where appropriate, this subsection of the ROD identifies mitigation measures that will be taken by the Army to avoid or minimize adverse environmental impacts.

Several of the following impact discussions will refer to Volume III, Appendix K (Summary of Monitoring Programs) which documents the intent of monitoring programs that will be implemented by FLW to ensure impacts associated with the Army's Preferred Alternative are consistent with those predicted in the FEIS and in full compliance with applicable laws, regulations and permit conditions. Specifically, Appendix K describes monitoring program elements, associated adaptive management strategies, and compliance schedules for six distinct monitoring programs including: (1) Air Quality; (2) Soils and Vegetation; (3) Human Health; (4) Endangered Species; (5) Biological Indicators; and (6) Water Quality.

5.1 Land Use and Training Areas

The FEIS concludes implementation of the Army's Preferred Alternative will not require change in the previously approved land use pattern for the non-cantonment training areas at FLW. Existing non-cantonment training areas will remain in use for training, and no additional areas will be converted to this land use, although the type of training conducted at several of the training areas will change. All such changes are compatible with adjacent training activities. Implementation will result in some adjustments to the existing land use plan within the FLW cantonment area. However, these changes are minimal in relation to the total land area involved, and each of

these changes will result in improved functional relationships and efficiency of post operations. The action will also modify existing off-post land use patterns associated with development of additional civilian residential and commercial activities in areas surrounding FLW.

Land Use and Training Area Impact Mitigation Commitments

None of the land use or training area impacts identified in the FEIS are significant, and no mitigation is required. The Army will construct BRAC related facilities and conduct related training and support operations in full compliance with the existing installation Master Plan, and those modifications to the Master Plan described as part of the Army's Preferred Alternative.

5.2 Air Quality

Recognizing that environmental agencies and members of the public are concerned about impacts of proposed fog oil obscurant training on the air quality within and around FLW, the Army conducted an in-depth evaluation of this issue and has fully documented the results in the FEIS. The FEIS air quality analysis was modified, in response to comments received on the Draft EIS, to clarify several issues and to provide additional details concerning impacts on air quality. This additional information is presented in subsections 5.2.2.3 and 5.5.5 of the FEIS, Appendix J (Air Permit #0695–010) to Volume III of the FEIS, and in a separate ''Air Quality Technical Reference Document: Relocation of the US Army Chemical School and US Army Military Police School to Fort Leonard Wood, Missouri,'' which was included in each the 11 public repositories identified in the FEIS.

Due to the quantity of air emissions associated with the planned fog oil obscurant training activities, the action is subject to permit review in compliance with 40 CFR Part 51 and Missouri State Rule 10 CSR 10–6.060. Full implementation of the Army's Preferred Alternative for fog oil obscurant training requires the use of up to 84,500 gallons of fog oil per year and up to 1,200 gallons per day. Review of subsection 5.5.3.3.2 (and other air quality subsections of the FEIS) indicate that, based on conservative assumptions for modeling, full implementation of the action would result in exceeding the National Ambient Air Quality Standards (NAAQS) for 24–hour PM–10 (see subsection 5.5.3.3.2 for details). Mitigation is thus required to comply with the NAAQS and the terms of the existing Missouri Department of Natural Resources (MDNR) Air Quality Permit #0695–010 for fog oil training at FLW. Fog oil training will be constrained to the level allowed by the permits in existence at the time the training occurs. Procedures to be used to ensure the general public is not exposed to air which does not meet the National Ambient Air Quality Standards because of fog oil training are described in subsection 5.2.2.15.B of Volume I of the FEIS and Appendix K of the FEIS.

The cumulative impact analysis included in the FEIS quantifies the level of mitigation (through reductions in the quantity of fog oil to be used) necessary to reduce PM–10 air quality impacts to acceptable levels. The FEIS demonstrates that implementation of the Army's Preferred Alternative, with fog oil training reduced to conditions and use limits established by the current MDNR Air Permit #0695–010 (as included in Appendix J. Volume III of the FEIS), will comply with the National Ambient Air Quality Standards for PM–10.

Because the implementation of fog oil training at the mitigated (existing MDNR Air Quality Permit #0695–010) level does not provide the level of training considered optimum by the U.S. Army Chemical School, the FEIS states that FLW intends to pursue a new or revised air permit with MDNR after evaluating the assumptions used for the air dispersion model in conjunction with site-specific (within and immediately adjacent to FLW) meteorological data that is currently being collected. The revised permit application may request consideration to use fog oil quantities up to the maximum levels specified under full implementation (non-mitigated) of the Army's Preferred Alternative (up to 84,500 gallons per year and up to 1,200 gallons per day). Any such permit renewal process will be subject to full disclosure and comment per the conditions and procedures established by MDNR. Additional details regarding the cumulative impact analysis and other factors relating to the air permitting process are fully documented in subsection fog 5.5.3.3.3 of the FEIS, and in the separate air quality technical reference document as referenced above.

Air Quality Impact Mitigation Commitments

Until a new or revised air permit is issued by Missouri Department of Natural Resources, the Army will comply with and adhere to annual and daily fog oil use levels specified in the existing MDNR Air Quality Permit #0695–010 (65,000 gallons per year and approximately 481 gallons per day) and comply with all terms and conditions established in the existing MDNR Air Quality Permit #0695–010 including air monitoring. The air quality monitoring plan includes three types of monitoring activities: (1) Ambient air quality monitoring of PM–10 and ozone; (2) meteorological monitoring; and (3) smoke movement monitoring.

Ambient air quality and meteorological monitoring will be conducted using a network of nine monitoring stations located on and near FLW. This network include four previously established stations that are only used to collect meteorological data. In addition, five meteorological and ambient air monitoring stations have been added at FLW (one at each of the four fog oil obscurant training areas, and a fifth at Forney Army Airfield). Meteorological and air quality monitoring will be conducted for at least 2 years prior to initiation of fog oil training at FLW to establish baseline conditions, and will continue for at least 2 years after fog oil training is initiated at FLW. Smoke movement monitoring will be conducted during mobile and field fog oil training exercises to ensure that training will comply with the National Ambient Air Quality Standards for PM–10. Additional details regarding the air quality monitoring plan and related adaptive management response is provided in Appendix K (subsection K.4.1, Volume III) of the FEIS.

Fort Leonard Wood will develop and implement a Public Awareness Program (as defined in Appendix L, Volume III of the FEIS) to inform the general public of potential health risks associated with exposures to fog oil. FLW will continue to adhere to established policies and procedures that are designed to ensure that the general public does not enter active training ranges, including those lands to used to support future smoke training activities. Procedures to be used to ensure that the general public does not enter active smoke training ranges are described in subsection 5.2.2.15.A of the FEIS and include: (1) establishment of appropriate safety zones adjacent to smoke training areas; (2) daily patrols of all closed or restricted training areas and related safety zones to ensure that no unauthorized persons enter these areas; and (3) appropriate signs along with physical barriers (such as gates or cables) on roads leading into training areas.

5.3 Noise

Elements of the Army's Preferred Alternative that result in direct and indirect effects to noise include: (1) Expansion of the amount of exterior

training activities, including the amount of ammunition, grenades and explosives to be used; (2) expansion of aircraft operations in and near Forney Army Airfield; and (3) noise associated with the construction of BRAC related construction projects. The FEIS concludes that the impacts of these activities, in association with other past, present and reasonably foreseeable future actions that could influence noise levels, are not expected to exceed significance criteria.

Noise Impact Mitigation Commitments

No mitigation is required. However, continued coordination between the installation and the Regional Commerce and Growth Association in Pulaski County and adjacent cities will help to ensure that noise sensitive land uses are avoided in those limited off-post areas that have previously been (as a result of current, baseline operations at FLW) and are expected to continue to be exposed to adverse noise levels.

5.4 Water Resources

Under this evaluation category, the FEIS considers the potential for impacts to regulatory flood plains, surface water and groundwater resources. The FEIS concludes that implementation of the Army's Preferred Alternative will not result in any adverse impact to regulatory flood plains within or beyond the FLW boundaries. The FEIS notes that the action may result in minor adverse cumulative impacts to surface water quality within FLW boundaries; and that minor, adverse impacts may occur as a result of sediment-laden surface water flowing into karst features (sinkhole and related rock fractures and openings that allow for rapid groundwater movement) that occur within installation boundaries. However, implementation of numerous specific surface water/sediment control projects (including the construction of an impermeable liner under the proposed flame training range and construction of several sediment retention basins) and adherence to Best Management Practices (BMPs) that are defined as part of the proposed action will ensure that these impacts do not reach significant levels.

Water Quality Impact Mitigation Commitments

In addition to continuation of existing (pre-BRAC) water quality monitoring at FLW (as defined in Volume III, Appendix H of the FEIS), the Army will implement a BRAC Water Quality Monitoring Plan to ensure compliance with the revised National Pollution Discharge Elimination System (NPDES) Missouri State Operating Permit MO–117251; the Missouri Clean Water Law, the Federal Water Pollution Control Act and all other applicable laws, regulations and permits. Subsection K.4.6 of Appendix K, Volume III of the FEIS describes all substantive elements of the water quality monitoring program to be implemented at FLW. The Army will also ensure BRAC construction projects are completed in accordance with specified erosion and surface water control features. This includes construction of berms around the flame training range, construction of water retention ponds to collect water runoff from the flame range, and construction of an impervious liner to control groundwater flows beneath the flame training range. FLW will implement management controls on training in order to avoid potential impacts associated with in-stream vehicle crossings including: (1) Limiting high mobility multipurpose wheeled vehicle (HMMWV) stream crossing training to specifically designated training area with an obstacle designed to replicate a stream crossing; and (2) limit other instream crossings associated with maneuver operations and mobile and field smoke training to areas which have been improved to minimize adverse impacts. Finally, the Army will continue to conduct all accordance with approved operating procedures, and use the FLW Installation Spill Prevention and Response Plan to minimize adverse impact of any spill that may occur in or near water resources.

5.5 Geology and Soils

The FEIS concludes that implementation of the Army's Preferred Alternative will result in minor adverse impacts to soils and geologic resources within FLW boundaries. These impacts include impacts to soils as a result of erosion on lands disturbed for construction and training activities, and the potential for impacts as a result of accumulation of hydrocarbons released at the planned flame training range.

Geology and Soil Impact Mitigation Commitments

The rate of soil erosion will be reduced through the implementation of BMPs during construction and continued implementation of the FLW Integrated Training Area Management Plan. Planned construction has been sited to avoid sensitive geologic areas. As stated above, the Army will also continue to conduct all training in accordance with approved operating procedures and use the FLW Installation Spill Prevention and Response Plan to minimize the adverse impact of any spill that may occur.

In accordance with Special Conditions 25 through 30 of the existing MDNR Air Quality Permit #0695–010, the Army will also develop and implement a Soils and Vegetation Monitoring Plan to monitor if there is fog oil residue (total petroleum hydrocarbons or TPHs) remaining on soil and vegetation. Additional information regarding this monitoring requirement are provided in subsection K.4.2 of Appendix K, Volume III of the FEIS.

5.6 Infrastructure

The FEIS documents that an increase in traffic volume and delays is anticipated as a result of the BRAC action; however, the degree of this traffic impact is not considered to be significant. The proposed action includes planned improvements relating to utility system distribution and collection systems. In consideration of these improvements, and the fact that existing treatment and plant facilities have adequate capacity to serve all current and reasonably foreseeable future needs, no significant adverse impacts are expected to occur to on-post utility systems. Energy, communication systems, and solid waste disposal provided by outside sources will be adjusted by the suppliers in accordance with all applicable laws and regulations concerning these operations, and no significant adverse impacts to these systems were identified by the EIS process. Energy consumption at FLW will increase, but energy efficient facility construction, existing facility renovations, and continued expansion of the natural gas system at FLW will help to reduce energy usage, and no significant adverse impacts are anticipated.

Infrastructure Impact Mitigation Commitments

The degree of traffic congestion problems will be reduced due to improvements included as part of the proposed action construction projects for the Combined Headquarters and Instruction facility plan (e.g., improvements planned for the intersections of Nebraska Avenue and First Street and Gate Street at Missouri Avenue). Realignment of Nebraska Avenue and improving Gate Street will also help offset the increased traffic volume expected to occur near the new consolidated Headquarters area. FLW will ensure utility distribution and collection systems are upgraded as required to accommodate the new facilities as part of the BRAC

construction program. All new buildings will meet applicable energy conservation guidelines and standards.

5.7 Hazardous and Toxic Materials

The addition of BRAC activities to FLW will increase the volume of hazardous materials used, handled, stored and transported on FLW over current levels. This increase in hazardous materials will also result in an increase in the amount of hazardous and special wastes being removed from FLW for disposal through properly licensed and monitored contract operations. The FEIS documents that all hazardous and toxic materials, low-level radioactive materials, regulated medical wastes, fuels, and special wastes will be handled, stored, transported and disposed of in a manner which protects the environment and human health, and in compliance with Army regulations and federal and state laws and regulations.

The FEIS was expanded to include additional information regarding the chemical characterization of liquid wastes generated by the Chemical Defense Training Facility (CDTF), and to further quantify the potential risks associated with the transportation of decontaminated special waste by-products associated with the CDTF to off-post disposal facilities. Information from that analysis is presented in subsection 5.2.2.8.5 (Volume I) and Appendix I (Volume III) of the FEIS.

Hazardous and Toxic Materials Impact Mitigation Commitments

No significant adverse impacts are anticipated, and no mitigation is required. The Army will continue existing environmental management programs that are designed to ensure that all such materials are managed properly. These ongoing management programs and plans include the FLW Hazardous Waste Minimization Program, Pollution Prevention Plan, Hazardous Waste Management Plan and the Installation Spill Prevention and Response Plan. In addition, the Army commits to the disposal of wastes generated by the CDTF in compliance with guidelines and criteria included in subsection 5.2.2.8.5.2, Volume I of the FEIS.

5.8 Munitions

Implementation of the Army's Preferred Alternative at FLW will result in an increase in the type and quantity of live munitions, obscurants and signals used at the post. The FEIS concludes that no direct or indirect impacts on munitions storage or operational controls are expected to occur as a result of this increase. The impacts of additional munitions usage on the environment (such as impacts to threatened and endangered species, human health, etc.) were evaluated under the appropriate resource categories.

Munitions Impact Mitigation Commitments

Because there are no adverse impacts, no mitigation actions are required under this evaluation category.

5.9 Permits and Regulatory Authority

The FEIS concludes that implementation of the Army's Preferred Alternative will result in an increase in the number of permit applications required to conduct training and a directly related increase in the type and extent of compliance monitoring. This increase in permit activity will require programming of additional fiscal resources to prepare and manage all required permits. Compliance with all permit terms and conditions will ensure that significant adverse impacts to the environment do not occur.

Permits and Regulatory Authority Mitigation Commitments

The Army commits to the preparation and maintenance of all permits, current or revised, required to implement and maintain the actions included as part of the Army's Preferred Alternative (as well as all ongoing mission permit requirements). Specific permits and regulatory procedures identified in the FEIS (and summarized in subsection ES.7 of the FEIS—Volume I) include: (1) MDNR Air Quality Permit #0695–010 for fog oil operations; (2) compliance with Section 7 of the Endangered Species Act; (3) National Pollution Discharge Elimination System (NPDES) Permit; (4) Nuclear Regulatory Commission (NRC) Materials License; (5) Land Disturbance Storm Water Permit; and (6) Nationwide Permit (NWP) in accordance with Section 404 of the Clean Water Act (CWA).

5.10.a Biological Resources (Federally-Listed Threatened and Endangered (T&E) Species)

Federally listed Threatened and Endangered (T&E) species of concern at FLW include Indiana bats, gray bats, and bald eagles. The FEIS documents the results of studies conducted to evaluate impacts of implementing the proposed action at FLW on these species. The U.S. Fish & Wildlife Service (USFWS) issued a Biological Opinion (BO) on the Armys Preferred Alternative on February 4, 1997. The BO concluded that implementation of the Army's Preferred Alternative is likely to adversely affect Indiana bats, gray bats and bald eagles. These adverse effects are associated with obscurant training and planned construction projects. The nature and extent of these effects are based on conservative assumptions that over estimates risks and are fully documented in subsection 5.5.3.11 of the FEIS (Volume I) and in the referenced Biological Assessment (BA) and BO. The USFWS determined these effect are not likely to jeopardize the continued existence of the Indiana bat, gray bat, or bald eagle. No critical habitat has been designated for these species in the action area, therefore, none will be affected by the action.

Federally-Listed T&E Species Impact Mitigation Commitments

FLW will conserve T&E Species by: (1) Implementing all reasonable and prudent measures (RPMs) that have been specified by the USFWS to minimize take of Indiana bats, gray bats, and bald eagles; (2) adhering to ''project design features'' that are specified as part of the proposed action; (3) preparing and implementing an Endangered Species Management Plan; (4) developing and implementing a biomonitoring plan (as described in Appendix K, Volume III of the FEIS); (5) establishing bat management zones around Freeman Cave; and (6) establishing a Landscape-Scale Forest Management Policy for FLW. Compliance with RPMs will be documented as required by the terms and conditions specified in the BO.

5.10.b Biological Resources (Other Protected Species)

As defined in the FEIS for the proposed action, Other Protected Species (OPS) include statelisted birds, mammals, and amphibians as well as migratory birds including neotropical migrants (NTMs), raptors, and shorebirds. Studies conducted to evaluate impacts of the proposed action on representative species are described in subsection 5.2.2.11.B and other applicable sections of the FEIS. Coordination with the USFWS included consideration of NTMs. The FEIS concludes that implementation of the Army's Preferred Action at FLW is likely to result in minor adverse impacts to OPS. These impacts would be associated with direct mortality of OPS as a result of vehicle operations, training activities, and clearing associated with new construction. Impacts may also be caused by increased forest fragmentation, and increased disturbance to wildlife from training activities. Although these impacts are

identified in the FEIS as adverse, they are not considered to be significant as discussed in subsection 5.5.3.11.B.3 of the FEIS.

Other Protected Species Impact Mitigation Commitments

Although not required by regulation, FLW will prepare and implement a Biological Indicators Monitoring Plan as described in subsection K.4.5 of Appendix K, Volume IV of the FEIS to ensure significant adverse impacts do not occur to OPS as a result of the planned action. This Biological Indicators Monitoring Plan will be implemented at least 1 year prior to the commencement of smoke training at FLW and will be conducted for a minimum of 2 years. Monitoring results will be jointly reviewed with the regulatory agencies and the determination made if additional monitoring is necessary using the Adaptive Management Strategy as defined in Appendix K of the FEIS. FLW will also continue to coordinate implementation of the planned action concerning measures that can be implemented to minimize impacts to NTMs.

5.10.c Biological Resources (Wetlands)

Implementation of the Army's Preferred Action is expected to cause minor adverse impacts to wetlands within FLW boundaries as a result of physical degradation of wetland vegetation at specified stream crossings and impacts to 0.14 acres of jurisdictional wetlands at the CDTF construction site. However, these impacts are not considered to be significant as discussed in subsections 5.5.3.11.D and 5.5.3.11.E of the FEIS.

Wetland Impact Mitigation Commitments

FLW will continue to adhere to BMPs and other environmental controls designed to minimize soil erosion and protect surface waters, soils and aquatic resources and wetlands during training and construction (subsections 5.1.4 and 5.5.1.3 of the FEIS). In addition, the Army will comply with requirements of Section 404 of the Clean Water Act prior to initiation of the construction phase of the range road stream crossings and the proposed CDTF project.

5.10.d Biological Resources (Other Aquatic and Terrestrial Resources)

The FEIS concludes that implementation of the Army's Preferred Action may result in minor adverse impacts to other aquatic and terrestrial resources within FLW boundaries as a result of training and construction activities. However, these impacts are not considered to be significant as discussed in (subsections 5.5.3.11.D and 5.5.3.11.E of the FEIS).

Other Aquatic and Terrestrial Resource Impact Mitigation Commitments

No significant impacts are expected to occur, and no specific mitigation actions are required. However, continued compliance with federal, state and local permits and regulations, including Missouri Clean Water Commission requirements will be maintained through the continued use of BMPs and other environmental controls as described in subsection 5.3.2.5.A of the FEIS. In addition, as previously stated in this ROD (section 5.5) the Army will also develop and implement a Soils and Vegetation Monitoring Plan to monitor if there is fog oil residue (total petroleum hydrocarbons or TPHs) remaining on soil and vegetation. Additional information regarding this monitoring requirement is provided in subsection K.4.2 of Appendix K, Volume III of the FEIS. This will provide added assurance that fog oil training does not result in any significant adverse impact to the general environment.

5.11 Cultural Resources

Phase I archaeological surveys have been conducted at locations where BRAC-related training and construction activities will occur on FLW. The FEIS documents that implementation of the Army's Preferred Alternative will not result in the alteration, renovation, or demolition of any historic buildings or structures, and activities will not impact any known significant (National Register eligible) cultural resources. Coordination with the Missouri State Historic Preservation Officer resulted in a finding of no effect for planned construction activities.

Cultural Resources Impact Mitigation Commitments

Training activities will continue to be conducted in accordance with FLW Regulation 210–14, and the FLW Historic Preservation Plan. Therefore, if archaeological materials are identified during any future construction or training activity, the Army commits to stopping the activity, and contacting the FLW cultural resource specialist to determine an appropriate course of action consistent with all applicable cultural resource laws and regulations.

5.12 Sociological Environment

The FEIS documents that the majority of direct sociological resource impacts will occur in Pulaski County, primarily in the St. Robert/Waynesville area. Anticipated growth and the associated increase in demands placed on the public service delivery systems in the area can be adequately accommodated by existing community resources and proper planning and programming for expansion. Impacts on school enrollment will primarily occur within the Waynesville R–VI District, which has made, or is in the process of making, plans to address the expanded enrollment anticipated to occur as a result of the planned action.

Sociological Environmental Impact Mitigation Commitments

No significant adverse impacts are excepted to occur under this evaluation category, and therefore, no Army mitigation actions are required. However, mitigation of minor adverse impacts will be partially accomplished through the phased implementation of the planned action. The construction program is scheduled to occur over a two year period, and the BRAC-related population will be relocated to FLW in phases over a 6–9 month period. In addition, the time between the announcement of the action to the public, and implementation of the initial phases of the action is sufficient to provide the opportunity for infrastructure and land use planning and programming. Planning assistance, in the form of grant funding under the auspices and assistance of the DoD Office of Economic Adjustment, will also be available to the local communities that are potentially impacted by the planned BRAC action at FLW.

5.13 Economic Development

The FEIS documents the significant beneficial economic impacts of implementing the Army's Preferred Alternative that will occur within the nine-county economic Region of Influence (ROI) surrounding FLW. Economic impacts described in the FEIS relate to incureased income, employment and business volume. Other major indirect impacts include expected increases in the area's real property tax base and local tax revenues. The majority of the direct economic impacts are expected to occur locally in Pulaski County, primarily in the St. Robert/Waynesville area.

Economic Development Impact Mitigation Commitments

No adverse economic impacts are expected to occur, and therefore, no Army mitigation actions are required.

5.14 Quality of Life/Human Health

Implementation of the Army's Preferred Alternative will result in an increase in the type and amount of military training activities to occur within the existing training range areas at FLW, which will result in increased use of those areas. These increased use levels are expected to result in an adverse impact by imposing additional limitations on the recreational use (e.g., hunting, fishing and other activities) of these areas while training occurs

Elements of the Army action identified in the FEIS that may result in direct or indirect effects to human health include: (1) Fog oil obscurant training; (2) training with toxic agents at the CFTF; and (3) Flame Field Expedient training. The FEIS, and supporting documentation, provides extensive analysis and consideration of the potential effects of fog oil obscurant training on military trainers, students, and the general population within the FLW cantonment area and beyond the installation boundaries. Based on these analyses, the FEIS concludes that trainers and fog oil training students will not be adversely affected because they follow standard Army operating procedures while conducting training exercises, including the use of protective masks when exposed to relatively high concentrations of fog oil (in excess of 5 mg/m^3). The FEIS concludes that human health effects are not anticipated for the general population within the cantonment area, or for those individuals beyond the facility boundary. This conclusion is based on consideration of maximum potential exposure of those populations as predicted by highly conservative fog oil dispersion modeling. Also, conditions in the MDNR issued Air Quality Permit #0695–010 for fog oil obscurant training are specifically designed to reduce the potential for exposure to the general public. In the unlikely event that the surrounding public is inadvertently exposed to fog oil, the exposures are anticipated to be infrequent and of short duration, thereby avoiding any potential for significant adverse impacts.

At the time the FEIS was published, the National Academy of Sciences (NAS) Subcommittee on Military Smokes and Oscurants of the Committee on Toxicology (''Committee'') had not completed their evaluation of the human health effects of fog oil. The NAS Committee report was, however, released before the completion of this ROD. A careful review of the Committee report reveals that their conclusions regarding the health effects of fog oil were very similar to those describe in the FEIS. The committee developed an 8 hours per day, 5 days per week, Permissible Exposure Guidance Level (PEGL) of 5 mg/m^3 for soldiers involved in training. The report noted that this level is often exceeded around the generators when soldiers train, and therefore recommended careful adherence to the Army's existing respiratory protection policy.

The Committee recommended a Permissible Public Exposure Guidance Level (PPEGL) of 0.5 mg/m^3 (exposure for 8 hours per day, 5 days per week), which is considered to be safe for sensitive individuals in the general public. Extensive air modeling using deconservative assumptions was completed during the preparation of the application for the air permit for fog oil training at FLW. Modeling results demonstrated that fog oil concentrations at the boundary of FLW and at the boundary of the cantonment area will not exceed short-term and long-term exposure standards developed by the Committee for the general public. Field and scientific studies document that of fog oil from smoke training onto vegetation is minute. As concluded in the FEIS, and supported by conclusions of the NAS Committee on toxicology, adverse health effects to the general public are not anticipated to occur to those living or working within the FLW cantonment area, or those living outside the FLW boundaries.

Adverse health impacts to the general public as a result of toxic agent training at the CDTF are not anticipated. As documented in the FEIS, this training activity is rigidly controlled to protect human health and safety of the instructors, soldiers that are trained, and the general public. The FEIS notes that this training activity has been accomplished for the last 10 years at Fort McClellan without an incident that threatened the health of any individual either inside or outside of the CDTF facility.

Quality of Life/Human Health Impact Mitigation Commitments

No significant adverse impacts are expected to occur under the ''Quality of Life'' evaluation category and therefore, no mitigation is required for the Quality of Life component of this evaluation category.

No significant adverse impacts are expected to occur to human health as a result of implementation of the Army's Preferred Alternative. However, in response to comments received from review agencies and the general public on the Draft EIS, the FEIS identifies a number of measures that will be implemented by the Army to ensure that significant adverse impacts do not occur. The Army commits to constructing and operating the CDTF and flame field expedient training facilities in full compliance with the protective measures described as part of the Army's Preferred Alternative. An impervious liner will be constructed under the flame range area to ensure that groundwater supplies are not adversely impacted by this training activity.

With regard to fog oil obscurant training, the Army commits to the full development, coordination and implementation of the Human Health Monitoring Plan as summarized in subsection 5.2.2.15.A and 5.2.2.15.B of the FEIS. The Army commits to additional sampling, mutagenicity testing and chemical analysis of fog oil smoke to confirm that no significant chemical transformations occur. The methodology used for testing and analysis may be modified with concurrence of USEPA if it is determined that other methodologies are more suitable and will produce more accurate data. The referenced testing and analysis is not expected to further assist in making an informed choice among the training alternatives analyzed in the FEIS. However, the results of this additional testing will be used and evaluated in accordance with the adaptive management strategy procedure described as part of the Human Health Monitoring Plan (see reference above). As stated in subsection 5.2.2.15.B.1 of Volume 1 of the FEIS (top of Page 5–138) the Army commits to completing this additional testing and analysis prior to implementation of fog oil training at FLW.

If the results of the testing described above result in exceedance of any established health criteria, the Army commits to developing and implementing a supplemental air monitoring plan (beyond the requirements of the Air Monitoring Plan to be implemented in accordance with the MDNR Air Quality Permit #0695010 for fog oil training) for any chemical constituents of concern.

The Army will develop a Public Awareness Program to inform the public in the surrounding community and those living at, working at, or visiting FLW about fog oil obscurant training, and the potential health risks associated with exposures to fog oil. Appendix L has been included as part of Volume III of the FEIS to describe the intent and general scope of the Public Awareness Program. As stated in Appendix L, the Public Awareness Program will be implemented a minimum of three

months prior the initiation of fog oil training at FLW.

5.15 Installation Agreements

The FEIS concludes that implementation of the Army's Preferred Alternative will result in a requirement to develop new Intraservice and Interservice Support Agreements among the various components to conduct operations at FLW. No adverse impacts are anticipated, since these agreements are designed to ensure that all parties are aware of, and comply with all applicable procedures governing ongoing operations at FLW.

Installation Agreement Impact Mitigation Commitments

No adverse impacts are expected, and therefore, no mitigation is required.

5.16 Operational Efficiency

The collocation and consolidation of the U.S. Army Engineer School (existing at FLW) with the relocated Chemical School and Military Police School as specified in the Army's Preferred Alternative provides for the maximum amount of interaction among the school staff and students. This increased positive interaction will substantially improve the synergism (operational efficiency and effectiveness) as described in applicable sections of the FEIS.

Operational Efficiency Impact Mitigation Commitments

No adverse impacts are expected, and therefore, no mitigation is required.

6. Conclusions

On behalf of the department of the Army, I have decided to proceed with actions required to relocate the U.S. Army Chemical School and the U.S. Army Military police School to FLW. I have carefully considered the FEIS, supporting studies, all comments provided during formal comment and waiting periods throughout the EIS process, and the NAS Committee report. Based on this review, I have determined that the Army's Preferred Action (including implementation of the Optimum Training Method Alternative, the Army's Proposed Land Use and Facility Plan (Combined Headquarters and Instruction), and the Phased Move Alternative) strikes the proper balance between the necessary protection of the environment, and the national defense interest of maintaining the ability of the Chemical School and Military Police School to complete mission essential training activities. Furthermore, I have determined that the Army has identified and adopted all practicable means to avoid or minimize harm to the environment that may be cased by implementation of the planned action.

Dated: May 15, 1997.

Robert M. Walker,

Assistant Secretary of the Army (Installations, Logistics & Environment).

[FR Doc. 97–13802 Filed 5–23–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy, DoD

Board of Visitors to the United States Naval Academy; Closed Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that a special subcommittee of the Board of Visitors to the United States Naval Academy will meet on May 28 and 29, 1997, at the United States Naval Academy, Annapolis, MD, at 8:30 a.m. This meeting will be closed to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information on the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, the Secretary of the Navy has determined in writing that the special subcommittee meeting shall be closed to the public because they will be concerned with matters as outlined in section 552(b) (2), (5), (6), (7), and (9) of Title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Lieutenant Commander Adam S. Levitt, U.S. Navy, Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402–5000, telephone number (410) 293–1503.

Dated: May 15, 1997.

Donald E. Koenig, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–13788 Filed 5–23–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 26, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5)

Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 20, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Report of Services for Children with Deaf-Blindness Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 58

Burden Hours: 522

Abstract: Form OMB No. 1820–0532 under the Services for Children with Deaf-Blindness program, is the sole source of data on (a) Number of deaf-blind children served by age, severity, sex, and nature of deaf-blindness; (b) Number of service trained/counseled; and types of services provided. The form is used annually to report the most accurate count to Congress.

[FR Doc. 97–13699 Filed 5–23–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Research; Energy Research Financial Assistance Program Notice 97–16; Climate Change Prediction Program

AGENCY: U.S. Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications to support the development of decadal to multi-century climate prediction in conjunction with the Climate Change Prediction Program, a part of the U.S. Global Change Research Program (USGCRP).

DATES: Applicants are encouraged (but not required) to submit a brief preapplication for programmatic review. There is no deadline for the preapplication, but early submission of preapplications is encouraged to allow time for meaningful discussions. Formal applications submitted in response to this notice must be received by 4:30 p.m., EDT, August 5, 1997, to permit timely consideration for award in Fiscal Year 1998.

ADDRESSES: Preapplications referencing Program Notice 97–16 may be sent to one of the program contacts at the following address: Office of Health and Environmental Research, Environmental Sciences Division, ER–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Formal applications referencing Program Notice 97–16 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contract Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 97–16. This address also must be used when submitting applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand-carried by the applicant. An original and seven copies of the application must be submitted; however, applicants are requested not to submit multiple application copies using more than one delivery or mail service.

FOR FURTHER INFORMATION CONTACT: Dr. Patrick A. Crowley, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–3069, fax (301) 903–8519, Internet e-mail address: p.crowley@oer.doe.gov. or Dr. Wanda Ferrell, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–0043, fax (301) 903–8519, Internet e-mail address: wanda.ferrell@oer.doe.gov. Program information is available on the DOE/OHER WWW site using the URL http://www.er.doe.gov/production/oher/ESD__top.html.

SUPPLEMENTARY INFORMATION: This notice requests applications for grants to support the following five efforts:

(1) Continuation and enhancement of activities previously funded by DOE under the auspices of the Carbon Dioxide Research Program climate research program element and the Computer Hardware, Advanced Mathematics and Model Physics (CHAMMP) climate model development program.

(2) Theoretical limits to climate prediction over decade to multi-century time frames with subcontinental and smaller scale spatial accuracy.

(3) The development of improved mathematical techniques, model formulations and computer algorithms for atmosphere, ocean and coupled atmosphere-ocean general circulation models (GCM) that more accurately and efficiently describe and predict global climate system behavior on the time and space scales mentioned above using advanced, parallel-processing scientific supercomputers.

(4) The development of improved representations of key climate processes (surface processes, convective transport, etc.) that accurately simulate these processes on the appropriate scales used in GCM-based climate models that simulate decade-to-century climate change.

(5) The development and analysis of long-term, observation based climate data sets that can be used to test the ability of GCM-based climate models to realistically simulate and predict climate system behavior on the above-mentioned time and space scales. The data sets should be developed from existing observational data bases and not require the collection of further measurements.

Accurate prediction of climate change on decadal and longer time scales is a major scientific objective of the Environmental Sciences Division (ESD). The DOE Climate Change Prediction Program is the next phase in the evolution of DOE's long-standing climate modeling and simulation research agenda. It was developed from the integration of the Computer Hardware, Advanced Mathematics and Model Physics (CHAMMP) climate model development program with the CO_2 Research Program climate research program element. The program is focused on developing, testing and applying climate simulation and prediction models that stay at the leading edge of scientific knowledge and computational technology. A unique feature of the program is the establishment of a distributed modeling center involving DOE National Laboratories, the National Center for Atmospheric Research and the non-Federal research community. The program will develop models based on more definitive theoretical foundations and improved computational methods that will run efficiently on future generations of high-performance scientific supercomputers. The intent is to increase dramatically both the accuracy and throughput of computer model-based predictions of future climate system response to the increased atmospheric concentrations of greenhouse gases.

To ensure that the program meets the broadest needs of the research community and the specific needs of ESD, the successful applicants will participate as members of the Climate Change Prediction Program Science Team along with selected scientists from related ESD programs. Costs for the participation in Science Team meetings and workshops should be included in

the respondent's application. Yearly estimates for Science Team travel should be based on one trip of five days to Washington, DC, one trip of five days to San Francisco, CA, and one trip of five days to Denver, CO.

Successful applicants for continuation or enhancement of previously-awarded grants will demonstrate (a) the continued relevance of their work to the goal of advancing the science of decade-to-multi-century climate prediction; (b) the quality and relevance of work conducted under previous support to this goal, including a listing of publications and presentations; and (c) relevant contributions to the development of DOE CHAMMP and Climate Modeling programs, including participation in the organization of meetings and workshops and collaborations with other DOE investigators. Applicants should include a special section entitled ''Accomplishments Under Previous Support,'' which addresses items (b) and (c) discussed in this paragraph. Applicants should be prepared to provide, on short notice, complete copies of all publications, reports, etc. listed in this section, should they be required for the review process.

Successful applicants for grants exploring the theoretical limits of climate prediction will conduct studies of the climate system to ascertain the capability for computer based climate simulation models to predict the aspects of the climate system that influence near-surface temperature, precipitation and winds, decades to centuries in the future. These studies may include, but are not limited to, analytical and modeling investigations of the coupled climate system, or components of the climate system, to identify climate dynamical mechanisms that influence long-term variability and predictability over continental and subcontinental spatial scales.

Successful applicants for developing new mathematical techniques and numerical algorithms will target their research toward methods that can be incorporated into models running on highly parallel scientific supercomputers capable of performing over 10^{11} floating-point operations per second (100 giga-FLOPS) in climate modeling simulations. Applicants must demonstrate the role of their research in improving the accuracy and/or computational efficiency of GCM-based climate simulation models of the type envisioned for use in making forecasts of long-term climate change. These methods may be used in the simulation of any or all of the climate system processes modeled in a GCM, including, but not limited to, atmospheric and ocean dynamics and transport, surface energy and mass exchange, atmospheric radiative transfer, ocean convection, and sea-ice dynamics and thermodynamics. Applicants in this area must include a plan for the dissemination of any developed model code, and necessary documentation, to the climate modeling community.

Successful applicants developing or improving representations of climate system processes for inclusion in GCM-based climate prediction models will conduct research to more accurately describe these processes and their interaction with other aspects of the simulated climate system. These studies will explore methods for incorporating the results of the U.S. Global Change Research Program's observational and experimental programs into model components that accurately describe climate system processes at the model resolution scales typically used for decade-to-multi-century climate prediction. Applicants in this area must include a plan for the dissemination of any developed model code, and necessary documentation, to the climate modeling community.

Successful applicants developing model diagnostic data sets will analyze existing observational data bases to develop time dependent records of climate variability and climate change that can be used as tests for climate change predictions. Analysis of the data should include consideration of the climate dynamical processes that led to the temporal and spatial variability in the record.

Especially important is the development of diagnostic data sets that can be used to test model predictions of long-term changes the near-surface temperature, precipitation and wind climatologies over continental and sub-continental spatial scales. Applicants in this area must include a plan to allow the inexpensive dissemination of the diagnostic data sets in a standard digital format.

It is anticipated that approximately $3,000,000 will be available for awards in Fiscal Year 1998, contingent upon the availability of appropriated funds. Multiple year funding of awards is expected, with out-year funding also contingent upon the availability of appropriated funds, progress of the research, and programmatic needs. The allocation of funds within the research areas will depend upon the number and quality of applications received. It is anticipated that a substantial fraction of the funds will support continuation of existing research. Typical awards in this area are $200,000 per year, but range from $50,000 to $600,000. The technical portion of the application should not exceed twenty-five (25) double-spaced pages and should include detailed budgets for each year of support requested. For applications requesting continuation or enhancements to previously awarded grants, the ''Accomplishments Under Previous Support'' section should not exceed ten (10) additional double-spaced pages. An abstract of 200 words or less must be included with the application. Lengthy appendices are discouraged. Collaborative applications are encouraged. Awards are expected to begin on or about December 1, 1997.

Potential applicants are strongly encouraged to submit a brief preapplication that consists of two to three pages of narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the DOE's Climate Change Prediction Program. Principal investigator address, telephone number, fax number and e-mail address are required parts of the preapplication. A response to each preapplication discussing the potential program relevance of a formal application generally will be communicated within 30 days of receipt. ER's preapplication policy can be found on ER's Grants and Contracts Web Site at: http://www.er.doe.gov/production/grants/preapp.html.

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;
2. Appropriateness of the Proposed Method or Approach;
3. Competency of Applicant's personnel and Adequacy of Proposed Resources;
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers will often be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

To provide a consistent format for the submission, review and solicitation of grant applications submitted under this

notice, the preparation and submission of grant applications must follow the guidelines given in the Application Guide for the Office of Energy Research Financial Assistance Program 10 CFR Part 605. Applicants are strongly encouraged to access ER's Financial Assistance Application Guide via the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html. A limited number of paper copies of the Application Guide are available and may be obtained from Ms. Karen Carlson, U.S. Department of Energy, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, 19901 Germantown Road, Germantown, MD 20874. Telephone request may be made by calling (301) 903–3338 or by Internet e-mail to karen.carlson@oer.doe.gov.

Technical information on the CHAMMP and Climate Modeling Programs is available on the WWW at the URL http://www.er.doe.gov/production/oher/GC/ESD__gc.html or from the Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831, telephone (423) 576–8401.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC, on May 16, 1997.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 97–13791 Filed 5–23–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

High Energy Physics Advisory Panel; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

DATES: Wednesday, July 16, 1997; 9:00 a.m. to 6:00 p.m.; and Thursday, July 17, 1997; 9:00 a.m. to 4:00 p.m.

ADDRESSES: Fermi National Accelerator Laboratory, Wilson Hall, Batavia, Illinois 60510.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Diebold, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–22, GTN, Germantown, Maryland 20874, Telephone: (301) 903–4801.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Wednesday, July 16, 1997 and Thursday, July 17, 1997:

Discussion of Department of Energy High Energy Physics Programs and FY 1998 Budget

Discussion of National Science Foundation Elementary Particle Physics Programs and FY 1998 Budget

Discussion of the Status of the Large Hadron Collider Project and U.S. Participation

Discussion of University-based High Energy Physics Programs

Status of Subpanel on Planning for the Future of U.S. High Energy Physics

Presentations and Discussions of Fermilab Program

Reports on and Discussions of Topics of General Interest in High Energy Physics

Public Comment (10 minute rule)

Public Participation: The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC. on May 21, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–13792 Filed 5–23–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP97–3–000]

Amoco Production Company, Anadarko Petroleum Corporation, Mobil Oil Corporation, OXY USA, Inc. and Union Pacific Resources Company; Notice of Petition for Adjustment

May 20, 1997.

Take notice that on May 12, 1997, Amoco Production Company, P.O. Box 3092, Houston, Texas 77253–3092, Anadarko Petroleum Corporation,[1] P.O. Box 1330, Houston, Texas 77251, Mobil Oil Corporation, 12450 Greenspoint Drive, Houston, Texas 77060–1991, OXY USA, Inc.,[2] 110 West 7th Street, Tulsa, Oklahoma 74119, and Union Pacific Resources Company,[3] Fort Worth, Texas 76102–6803 (collectively identified as Petitioners) filed a petition for adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Subpart K of the Commission's Rules of Practice and Procedure, requesting pre-remittance relief from the requirement to pay interest on all refunds that Petitioners may be directed to make with respect to gas production between October 4, 1983 and June 28, 1988, owing to Petitioners' collection (from their respective gas purchasers) of Kansas ad valorem tax reimbursements that have since been deemed to be in excess of the NGPA's applicable maximum lawful gas prices, all as more fully set forth in the subject petition.

This matter evolved out of the Commission's 1974 decision in Opinion No. 699–D, to permit gas producers to recover Kansas ad valorem tax reimbursements from their gas purchasers, the Commission's subsequent decision to allow gas producers to collect Kansas ad valorem tax reimbursements under Section 110 of the NGPA, and Northern Natural Gas Company's 1983 challenge to such collections,[4] culminating in the decision by the United States Court of Appeals for the District of Columbia Circuit, in *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. Cir. 1996), that refunds should be paid with respect

[1] Anadarko's predecessors in interest include Pan Eastern Exploration Company, APX Corporation, and Metagorda Island Exploration Corporation.

[2] OXY's predecessors in interest include Cities Service Oil and Gas Corporation and Cities Service Company.

[3] Union Pacific's predecessors in interest include Champlin Petroleum Company.

[4] See 48 FR 45287 (October 4, 1983).

to Kansas ad valorem tax reimbursements on production between October 4, 1983 and June 28, 1988, and the Supreme Court's denial of cross-petitions for certiorari, filed in connection with the D.C. Circuit's decision in *Public Service Company of Colorado* v. *FERC*.

Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the **Federal Register**. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13717 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–307–001]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice that on May 15, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, to become effective May 1, 1997:

Second Revised Volume No. 1

Substitute Seventh Revised Sheet 17A

Original Volume No. 2

Substitute Fourth Revised Sheet No. 15

ANR states the above-referenced tariff sheets are being submitted to comply with the Commission's April 30, 1997 Order in the captioned proceeding. ANR states that the net result of this filing is a charge to its customers of $.456 million, inclusive of carrying charges.

ANR states that all of its Volume No. 1 and Volume No. 2 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13725 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–367–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice that on May 15, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets proposed to become effective June 1, 1997:

Second Revised Volume No. 1

Eighth Revised Sheet No. 17A

Original Volume No. 2

Twelfth Revised Sheet No. 14
Sixth Revised Sheet No. 15

ANR states that the above-referenced tariff sheets are being submitted to commence recovery of approximately $6.1 million of costs, including carrying charges, associated with payments made by ANR to Great Lakes Transmission, L.L.P. (Great Lakes). ANR states that the costs were billed by Great Lakes as a result of the Commission's Order on remand in Docket No. RP91–143–047.

ANR states that all of its Volume No. 1 and Volume No. 2 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided as Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13727 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–166–004]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice that on May 14, 1997, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing with the Federal Energy Regulatory Commission (Commission) the following changes to its FERC Gas Tariff effective June 1, 1997:

Substitute Second Revised Sheet No. 196
Original Sheet No. 196A

Columbia Gulf states this filing is being made to provide for the correction of certain errors made when Columbia Gulf made its GISB compliance filing on April 2, 1997, in Docket No. RP97–166–000. In that respect, Columbia Gulf is revising Sheet No. 196, filing a new Sheet No. 196A, and revising the diskette on which the tariff sheets are contained in order to ensure that the diskette accurately reflects the information contained on the paper copy of the filed tariff sheets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13720 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–522–000]

Florida Gas Transmission Company and Southern Natural Gas Company; Notice of Joint Application To Abandon Transportation Service and Service Agreement

May 20, 1997.

Take notice that on May 15, 1997, Florida Gas Transmission Company (Florida Gas), 1400 Smith Street, Houston, Texas 77251–1188 and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed a joint application in Docket No. CP97–522–000, requesting: (1) Permission and approval, pursuant to section 7(b) of the Natural Gas Act, to abandon the transportation service that Florida Gas used to provide to Southern under Florida Gas Rate Schedule X–18 along with the subject August 4, 1980 transportation service agreement (August 4 Agreement); and (2) any other authorizations deemed necessary to implement the abandonment (as proposed), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The Applicants state that, under the terms of the August 4 Agreement, Florida Gas transported Southern's 50 percent share of gas purchased in the Brazos Area, offshore Texas (up to 8,300 MMBtu/day) from an interconnection between facilities authorized in Docket No. CP80–211 [1] and Florida Gas' Kain Lateral, in Matagorda County, Texas, to an interconnection between the pipeline facilities of Florida Gas and Southern, in Washington Parish, Louisiana. The August 4 Agreement had a primary term of 15 years and continued thereafter until Florida Gas or Southern provided the other with written notice to terminate. The Applicants state that, by letter agreement signed by Florida Gas on August 21, 1996, and by Southern on September 30, 1996, both parties have agreed to terminate the August 4 Agreement and to waive the notice of termination.

The Applicants state that the implementation of open-access transportation services under Subpart G of Part 284 of the Commission's regulations, and the restructuring of their respective services under Order No. 636, has rendered the August 4 Agreement (i.e., Rate Schedule X–18) unnecessary and obsolete.

The Applicants also state that no Florida Gas or Southern customer will be disadvantaged by the proposed abandonment, and that the proposed abandonment will not result in the abandonment of any of Florida Gas' or Southern's facilities or services.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 10, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application, if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Florida Gas and Southern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13715 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

[1] The CP80–211 facilities include, among other things, 15.5 miles of 10-inch diameter pipeline, and 13.5 miles of 8-inch diameter pipeline that extends from an offshore platform in Brazos Block 340 to an interconnection with Florida Gas' Kain Lateral, near Wadsworth, in Matagorda County, Texas, plus 4.3 miles of 4-inch pipeline that connects Brazos Block 367 to Brazos Block 340.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85–221–091]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

May 20, 1997.

Take notice that on May 14, 1997, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 100,000 MMBtu, not to exceed 10 Bcf of Frontier's gas storage inventory on an ''as metered'' basis to Prairelands Energy Marketing Inc. for term ending June 1, 1997.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985,Order, Frontier is ''authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter.''

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13713 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–174–002]

Gulf States Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice that on May 15, 1997, Gulf States Transmission Corporation (GSTC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, certain tariff sheets to be effective November 1, 1997.

GSTC states that the purpose of the filing is to comply with the Commission's Order No. 587–C, issued March 4, 1997 in Docket No. RM96–1–004.

GSTC states that it has modified its tariff to insert the revised and new GISB standards accepted by the Commission in Order No. 587–C.

GSTC states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary,

[FR Doc. 97–13721 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–298–002]

Mississippi River Transmission Corporation; Notice of Filing

May 20, 1997.

Take notice that on May 14, 1997, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to be effective May 1, 1997.

Substitute Second Revised Sheet No. 100

MRT states that this tariff sheet is filed herewith to comply with the Commission order dated April 30, 1997 in the above referenced docket.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13723 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–64–006]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

May 20, 1997.

Take notice that on May 15, 1997, Natural Gas Pipeline Company of American (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective May 1, 1997.

Natural states that the purpose of the filing is to comply with the Commission's Order issued April 30, 1997, in Docket Nos. RP97–64–001, et al. (April 30 Order).

Natural requests waiver of Ordering Paragraph B of the April 30 Order to permit tariff sheets setting forth the rule factors and the fuel formula to become effective May 1, 1997 rather than June 1, 1997.

Natural states that copies of the filing are being mailed to its jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list at Docket No. RP97–64.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13719 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–790–000, CP96–791–000, CP96–792–000]

Nautilus Pipeline Company, L.L.C.; Notice of Meeting

May 20, 1997.

Take notice that a meeting has been scheduled in the above-captioned proceeding for May 28, 1997, at 3:30 p.m., in Room No. 71–56 of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The purpose of the meeting is to discuss the proper regulatory treatment of plant facilities that Nautilus Pipeline Company, L.L.C. (Nautilus) proposes to construct, and to discuss Nautilus' proposed addition of a receipt point and new delivery points, for service by Nautilus, that will be made possible by the construction of the plant facilities.

Nautilus states that its application to construct its 101-mile, 30-inch diameter offshore pipeline included facilities to accomplish connections at the Exxon-Garden City Plant, and that the funding to construct such connections was included in its application. Nautilus further states, however, that it is now clear that the facilities required to effect these connections will be more expensive and extensive than originally contemplated. Nautilus states that the construction of these facilities will facilitate deliveries by Nautilus' shippers to the Exxon-Garden City Plant and to interstate and intrastate pipelines downstream of that plant.

Persons interested in attending should contact Marc F. Poole at (202) 208–0482.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13814 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–250–001]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice that on May 15, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective May 1, 1997:

Second Revised Sheet No. 282
Substitute Original Sheet No. 282A

NGT states that the purpose of this filing is to comply with the order issued in this docket on April 30, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13722 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN97–1–000]

Questar Pipeline Company; Order Instituting Proceeding

Issued May 9, 1997.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

After completing a preliminary investigation under the Commission's Rules Relating to Investigations, 18 CFR Part 1b, the Enforcement Section, Office of the General Counsel (Enforcement), has reported to the Commission that from November 1, 1988 through September 30, 1992, Questar Pipeline Company (Questar) may have collected gathering rates from Mountain Fuel Supply Company (Mountain Fuel) that violate section 4(d) of the Natural Gas Act (NGA), 15 U.S.C. § 717c(d) (1994), and Questar's Federal Energy Regulatory Commission (FERC) tariff. The instant order establishes a proceeding, pursuant to sections 4, 5 and 16 of the NGA, 15 U.S.C. §§ 717c, 717d and 717o (1994).

As discussed below, the Commission is ordering Questar to show: (a) Why it has not violated section 4(d) of the NGA and its FERC tariff as a result of its gathering charges to Mountain Fuel from November 1, 1988 through September 30, 1992; and (b) why it should not refund (with interest running through the refund date) the portion of those gathering charges that exceeded the one-part gathering rates contained in the revisions to Sheet No. 8, Volume 3, of Questar's tariff that were in effect during that period.

A. Background

For a period including November 1, 1988 through September 30, 1992, Questar was an interstate pipeline engaged in the transportation and sale of natural gas in interstate commerce, and was located in Salt Lake City, Utah. Mountain Fuel was a local distribution company also located in Salt Lake City. Questar and Mountain Fuel were corporate affiliates.

Questar gathered and transported gas for Mountain Fuel. Volume No. 3 of Questar's FERC tariff contained Rate Schedule No. X–33 (RS X–33), which governed Questar's transportation for Mountain Fuel, and Sheet No. 8, which governed the transportation rates Questar charged under RS X–33. Questar periodically filed revisions to Sheet No. 8 with the Commission.

On September 9, 1988, Questar filed two tariff sheets with the Commission that included gathering rates. One of these was Tenth Revised Sheet No. 8, which set out a gathering rate of $0.28941 per decatherm (Dth), to become effective November 1, 1988. The Commission accepted these sheets for filing on December 1, 1988. 45 FERC ¶ 61,447 (1988).

On April 17, 1989, Questar filed an offer of settlement in Docket No. RP88–93. Questar's offer included Substitute Tenth and Eleventh Revised Sheets No. 8, effective November 1, 1988 and January 1, 1989, respectively, both of which contained a gathering rate of $0.23095/Dth. On October 6, 1989, the Commission approved Questar's settlement offer in Docket No. RP88–93, with modifications not relevant here. 49 FERC ¶ 61,018 (1989).[1] The settlement gathering rate of $0.23095/Dth remained in effect through October 1991.

On July 24, 1992, Questar submitted a settlement offer in Docket No. RP91–140. The settlement offer included Third Substitute Seventh Revised Sheet No. 8 and Second Substitute Eighth Revised Sheet No. 8, effective November 1, 1991 and January 1, 1992, respectively, both of which included a ''one-part'' (commodity only, as opposed to demand and commodity) gathering rate of $0.18296/Dth. The offer also included Ninth Revised Sheet No. 8, effective October 1, 1992, which contained a one-part gathering rate of $0.32693/Dth.[2] The Utah Division of Public Utilities (UDPU), which regulated Mountain Fuel's retail rates in Utah, intervened in this docket and filed comments supporting the settlement. On November 3, 1992, the Commission approved the settlement. 61 FERC ¶ 61,180 (1992).

B. The Alleged Overcharges

Based on the information gathered in its investigation, Enforcement alleges that during the period from November 1, 1988 through September 30, 1992:

1. Questar's gathering rates to Mountain Fuel exceeded the gathering rates set out in the revisions to Sheet No. 8. The excessive rates, per decatherm, were as follows:

Months	Tariff rate	Charged rate	Excess rate
11–12/88	$0.23095	$0.27840	$0.04745
01–12/89	.23095	.24580	.01485
01–12/90	.23095	.27940	.04845
01–10/91	.23095	.28064	.04969

[1] All citations to the FERC Reports are captioned *Questar Pipeline Co.* unless otherwise indicated.

[2] On August 12, 1992, Questar amended its settlement offer in ways not relevant here.

Months	Tariff rate	Charged rate	Excess rate
11–12/91	.18296	.28064	.09768
01–09/92	.18296	.28190	.09894

2. Questar's gathering overcharges to Mountain Fuel totaled $3,427,192. The overcharges for the time periods set out in ¶ 1 were as follows:

Months	Decatherms sold	Excess rate	Overcharge
11–12/88	5,619,369	$0.04745	$266,639
01–12/89	18,439,042	.01485	273,820
01–12/90	15,107,171	.04845	731,942
01–10/91	14,613,340	.04969	726,137
11–12/91	5,496,168	.09768	536,866
01–01/92	9,013,427	.09894	891,788

3. Mountain Fuel passed through to its customers all gathering charges that it paid to Questar, including Questar's overcharges.

C. Discussion

During the course of the investigation, Questar made a number of contentions that warrant comment. Questar argued that the Commission lacks jurisdiction over its gathering rates, and cited Section 1(b) of the NGA, 15 U.S.C. § 717(b) (1994), and *Northwest Pipeline Corp.* v. *FERC*, 905 F.2d 1403 (10th Cir. 1990), in support of this assertion. Section 1(b) states that the NGA does not apply ''to the production or gathering of natural gas.'' In *Northwest Pipeline*, the court reversed a Commission order asserting jurisdiction over what the Commission claimed were a pipeline's transportation rates; the court held that the Commission had failed to adequately support its conclusion that the pipeline's rates were for transportation rather than gathering.

However, *Northern Natural Gas Co.* v. *FERC*, 929 F.2d 1261 (8th Cir. 1990), *cert. denied*, 502 U.S. 856 (1991), rather than *Northwest Pipeline*, governs the Commission's authority to regulate Questar's gathering rates. In *Northern Natural*, the court upheld the Commission's authority to regulate an interstate pipeline's gathering rates on the ground that the rates were charged ''in connection with'' jurisdictional transportation and therefore were subject to regulation under section 4(a) of the NGA, 15 U.S.C. § 717c(a) (1994). The court distinguished the Tenth Circuit's decision in *Northwest Pipeline*, noting that the Tenth Circuit had relied on the Commission's failure to support its determination that the rates were transportation rates; in *Northern Natural*, the Commission acknowledged that the rates were gathering rates.

Questar also argued that the Commission never asserted its jurisdiction over Questar's gathering rates. Questar stated that the first time any representative of the Commission directed Questar to include a gathering rate in its tariff sheets was during an August 4, 1988 meeting that Questar had arranged with staff of the Office of Pipeline Regulation (OPR) to discuss a July 18, 1988 letter order that the Director of OPR had issued in Docket No. RP88–93. In that meeting, OPR staff directed Questar to include a ''gathering rate of general applicability'' in its tariff. On August 17, 1988, Questar included a challenge to staff's directive in Questar's appeal of the letter order. ''Questar Pipeline Company's Appeal from Staff Action'' (Docket No. RP88–93–005, *et al.*). Questar based its challenge on the assertion that the Commission lacks jurisdiction over gathering. *Id.* at pp. 18–19. On February 1, 1989, the Commission denied Questar's appeal in part, but did not address Questar's jurisdictional challenge. 46 FERC ¶ 61,115 (1989).[3] Questar views the Commission's silence on this point as a failure to assert jurisdiction.

However, the Commission's December 1, 1988 order, discussed *supra*, accepting the Questar tariff filing that included Tenth Revised Sheet No. 8—which contained a gathering rate—constituted an assertion of the Commission's jurisdiction over Questar's gathering rates for Mountain Fuel. Moreover, Questar's filing of that tariff sheet constituted Questar's acceptance of that jurisdiction, at least for the period in which the tariff gathering rate remained in effect. The Commission orders approving the settlements in Docket Nos. RP88–93 and RP91–140 constituted additional instances of the Commission's assertion and Questar's acceptance of Commission jurisdiction over Questar's gathering rates.

[3] Questar did not seek rehearing.

Indeed, Questar's acceptance of these settlements precludes the company from challenging the Commission's jurisdiction over Questar's gathering rates during the period at issue. In *Colorado Interstate Gas Co.* v. *FERC*, 83 F.3d 1298 (10th Cir. 1996), the court held that an interstate pipeline that had entered into a settlement requiring it to charge specified gathering rates lacked standing to challenge Commission jurisdiction over those rates during the term of the settlement. The settlement rates in either Docket No. RP88–93 or Docket No. RP91–140 were in effect throughout the period from November 1, 1988 through September 30, 1992.[4]

Questar also claimed that the gathering rates contained in the revisions to Sheet No. 8 did not apply to Mountain Fuel. Questar contended that these rates were ''default rates'' that only applied to those gathering contracts that did not provide for specific gathering rates (such as contracts that expressly incorporated the prevailing tariff rate). During the period at issue, Questar calculated its gathering charges to Mountain Fuel in accordance with a gathering agreement that the two affiliates executed in 1987,

[4] Questar also suggested that the settlement the Commission approved in Docket No. RP91–140 precludes further Commission action based on Questar's past gathering charges. Questar cited section III.B(2), which states that the settlement resolves ''any current dispute or inquiry raised by . . . the Commission concerning prior statements of Questar's rates for gathering services on its FERC Gas Tariff rate sheets.''

However, the Commission's order approving the settlement reserves the Commission's right to redress Questar's overcharges to Mountain Fuel. Ordering Paragraph (C) states:

The Commission's approval of this settlement does not preclude any Commission action regarding Questar's collection of gathering charges from Mountain Fuel Supply Company prior to the date of this order.

61 FERC at p. 61,656. Questar did not seek rehearing of this order.

but never filed with the Commission. Questar argued that the rates calculated under this gathering agreement superseded the rates contained in the revisions to Sheet No. 8.

Questar's contentions are inconsistent with applicable law. Once the Commission's orders approving the settlements in Docket Nos. RP88–93 and RP91–140 became final and no longer subject to judicial review, the gathering rates (and effective dates) contained in the revisions to Sheet No. 8 took precedence over any gathering rate dictated by the Questar-Mountain Fuel gathering agreement. *See Arkansas Louisiana Gas Co.* v. *Hall,* 453 U.S. 571, 582, (1981) (where the tariff rate and the contract rate conflict, the tariff rate controls).

Questar further contended that even if the Commission has the legal right to require Questar to refund a portion of its gathering charges to Mountain Fuel, the Commission's exercise of that right would be inequitable. The company offered several reasons for this contention.

Questar produced two ''supplemental agreements'' in which the UDPU endorsed the Questar-Mountain Fuel gathering agreement. In the first ''supplemental agreement,'' which Questar's predecessor, Mountain Fuel and the UDPU executed on November 5, 1987, the UDPU stated that the gathering agreement ''provides a fair, just and reasonable means for [Mountain Fuel] to obtain gathering services from [Questar],'' and agreed not to challenge Mountain Fuel's passthrough of the gathering rates charged by Questar during 1988. In the second ''supplemental agreement,'' which Questar, Mountain Fuel and the UDPU executed on April 27, 1989, the parties agreed, among other things, that Questar would charge Mountain Fuel a gathering rate of $0.2458/Dth during calendar year 1989 and that the UDPU, which had intervened in Docket No. RP88–93, would support Questar's proposed settlement in that docket.

However, the UDPU's general endorsement of the gathering agreement did not relieve Questar of the obligation to charge Mountain Fuel the gathering rates contained in Questar's tariff. The UDPU did not have jurisdiction over Questar's gathering rates. *See Schneidewind* v. *ANR Pipeline Co.,* 485 U.S. 293 at 310 (1988) (quoting *Nothern Natural Gas Co.* v. *State Corporation Comm'n of Kansas,* 372 U.S. 84 at 91–92 (1963)) (''When a state regulation '* * * presents the prospect of interference with the federal regulatory power, then the state law may be pre-empted even though 'collision between the state and federal regulation may not be an inevitable consequence.' '). In addition, the UDPU did not address Questar's gathering rates for 1990 through 1992, a period that includes 33 of the 47 months at issue. Finally, the UDPU's support of the settlements in Docket Nos. RP88–93 and RP91–140 conflicts with the agency's endorsement of the gathering agreement because the settlements provided for lower gathering rates than those Questar charged under the agreement.

Questar further asserted that its alleged gathering overcharges did not harm Mountain Fuel's ratepayers. Questar noted that during the relevant time period, Rate Schedule No. CD–1 of Questar's tariff (RS CD–1) governed its sales of gas to Mountain Fuel. Questar contended that it subtracted the gathering revenues collected under its transportation rate schedules—including RS X–33—from the cost of service used in calculating its sales rate under RS CD–1. Thus, Questar argued, if it had charged Mountain Fuel the tariff rate for the gathering provided under RS X–33, the pipeline would have had to charge Mountain Fuel a higher rate for the gas Questar sold Mountain Fuel under RS CD–1 to fully recover its costs.

However, Questar's gathering rates and sales rates were determined in the settlements that the Commission approved in Docket Nos. RP88–93 and RP91–140. Charging Mountain Fuel the settlement gathering rates would not have allowed Questar to charge its affiliate higher sales rates; Questar would have had to charge Mountain Fuel the sales rates set out in the settlements. Therefore, it appears that if Questar had charged Mountain Fuel the settlement gathering rates, Mountain Fuel's ratepayers would have benefitted.

Finally, Questar asserted that if it is forced to refund its alleged overcharges, it will not recover its cost of service for the period during which the overcharges took place. However, this assertion, even if proven by Questar, would not appear to excuse Questar's refund obligation. It appears that the imposition of refunds is necessary to enforce the settlements that the Commission determined to be in the public interest in Docket Nos RP88–93 and RP91–140. The Commission and courts have long recognized that upholding such settlements serves a strong public interest. *E.g., Mobil Oil Corp.* v. *FPC,* 570 F.2d 1021, 1026 (D.C. Cir. 1978) (''[J]ust as encouraging settlements is in the public interest, so is abiding by settlements that are entered into in good faith and without overreaching.'')

The Commission orders:

(A) Within 30 days of the issuance of this order, Questar shall:

(1) File an answer to the allegations of overcharges and violations that conforms to the requirements of Rule 213 of the Commission's Rules, 18 CFR 385.213. In its answer, Questar shall admit or deny, specifically and in detail, each allegation set forth in Part B of this order, and shall set forth every defense relied on. If an allegation is only partially accurate, Questar shall specify that part of the allegation it admits and that part of the allegation it denies.

(2) Show (a) why it has not violated section 4(d) of the NGA and its FERC tariff as a result of its gathering charges to Mountain Fuel during the period November 1, 1988 through September 30, 1992 and (b) why it should not refund (with interest running through the refund date) the portion of those gathering charges that exceeded the one-part gathering rates contained in the revisions to Sheet No. 8 that were in effect during that time period.

(3) Questar shall separately state the facts and the arguments that it advances. Questar must support with exhibits, affidavits and/or prepared testimony any facts that it alleges. Questar's statement of material facts must include citation to supporting data. At a minimum, Questar should provide work papers and any other documents to support its allegations that all of the revenues received by Questar associated with the Mountain Fuel gathering agreement were used in the applicable rate proceedings to reduce the cost of service allocated to Questar's sales service under Rate Schedule CD–1, and Mountain Fuel was the only customer receiving service under Rate Schedule CD–1. All materials must be subscribed and verified as set forth in sections 385.2005 (a) and (b)(2) of the Commission's regulations, 18 CFR 385.2005 (a) and (b)(2).

(B) Notice of this proceeding shall be published in the **Federal Register**. Interested parties shall file petitions for intervention no later than 30 days after the date of publication.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13789 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–312–001 and RP97–71–005]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice on May 15, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets which tariff sheets are enumerated in Appendix A attached to the filing. The attached tariff sheets are proposed to be effective July 1, 1997.

Transco states that the purpose of the filing is to comply with the Commission's order of April 30, 1997 in Docket Nos. RP97–312–000 and RP97–71–000, 79 FERC ¶ 61,104 (1997) (April 30th Order). In the April 30th Order, the Commission approved, subject to refund and certain conditions, the tariff sheets implementing a new interruptible parking and borrowing service under Rate Schedule PBS (hereinafter ''PBS Service''). The April 30th Order directed Transco to: (1) Submit a projection of costs and revenues under PBS Service consistent with section 154.202(a)(viii) of the Commission's regulations; (2) file information explaining the PBS Service curtailment priority; (3) revise its tariff to provide that, in the event a PBS shipper makes a timely nomination, the obligation of the PBS shipper to comply with a notification to withdraw or return gas will be tolled until such time as Transco schedules these nominations; (4) provide in its tariff that posting the available points of service on ''TRANSIT'' will be done in a non-discriminatory manner; and (5) clarify that the Rate Schedule PBS nomination deadline will be the same as the deadline for all other services. Transco is thereby making the necessary changes to its tariff in order to comply with the April 30th Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13726 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–306–001]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 20, 1997.

Take notice that on May 15, 1997, Williams Natural Gas Company (WNG) tendered for filing Substitute Third Revised Sheet No. 254 to its FERC Gas Tariff, to be effective May 1, 1997.

WNG states that this filing is being made in compliance with Commission order issued April 30, 1997 in the above referenced docket. Substitute Third Revised Sheet No. 254 is being filed to correct a typographical error.

WNG states that a copy of its filing was served on all parties on the official service list in the above-captioned docket and on all jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13724 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–34–000, et al.]

Northern Electric Power Co., L.P., et al.; Electric Rate and Corporate Regulation Filings

May 16, 1997.

Take notice that the following filings have been made with the Commission:

1. Northern Electric Power Co., L.P.

[Docket No. EC97–34–000]

On May 9, 1997, Northern Electric Power Co., L.P. (Applicant), filed with the Federal Energy Regulatory Commission an Application for Disclaimer of Jurisdiction or Alternatively for Expedited Approval of the Transfer of Ownership Pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's Regulations.

Applicant, a limited partnership organized under the laws of the State of New York, seeks a disclaimer of jurisdiction over—or, alternatively, approval of—transfer of indirect control over a qualifying facility that is not exempt from the Federal Power Act. The proposed transaction involves the acquisition of all of the voting securities of Adirondack Hydro Development Corporation, an upstream parent of Applicant, by Indeck Capital, Inc. Applicant owns and operates the Hudson Falls Hydroelectric Project, a 36.1 megawatt qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978, located on the Hudson River in the counties of Saratoga and Washington, New York.

Comment date: June 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Soyland Power Cooperative, Inc. and Illinois Power Company

[Docket No. EC97–31–000]

Take notice that on May 1, 1997, Soyland Power Cooperative, Inc. (Soyland) and Illinois Power Company (Illinois Power) (collectively, the Applicants) tendered for filing with the Federal Energy Regulatory Commission (the Commission) a Joint Application for Approval of Disposition and Acquisition of Facilities. As part of a comprehensive debt restructuring, Soyland proposes to transfer its 13.21% interest in the Clinton Nuclear Facility to Illinois Power, including the transmission substation associated with the Clinton plant. The substation is a

facility subject to the Commission's jurisdiction.

The Applicants state that a copy of the filing was served upon Soyland and Illinois Power.

Comment date: June 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. CMS Operating S.A.

[Docket No. EG97–62–000]

On May 7, 1997, CMS Operating S.A., Alsina 495, piso 5 (1087), Capital Federal, Buenos Aires, Argentina, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

CMS Operating S.A. is a subsidiary of CMS Enterprises Company, a Michigan corporation, which is a wholly-owned subsidiary of CMS Energy Corporation, also a Michigan corporation. CMS Operating S.A. a will be operating a 128 megawatt natural gas-fired electric co-generation facility on the grounds of a refinery owned by YPF S.A. in Ensenada, province of Buenos Aires, Argentina.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Zond Development Corporation

[Docket No. EG97–63–000]

On May 7, 1997, Zond Development Corporation, 13000 Jameson Road, Tehachapi, California 93561, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Zond Development is a subsidiary of Zond Corporation, an indirect majority-owned subsidiary of Enron Corp. Zond Development will build and own a wind turbine generation facility (the Facility) near Alta, Iowa. The Facility will consist of approximately 150 wind turbines, with an aggregate nameplate capacity of 112.5 megawatts. Electric energy produced by the facility will be sold to MidAmerican Energy Company.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those concern the adequacy or accuracy of the application.

5. Zond Minnesota Development Corporation II

[Docket No. EG97–64–000]

On May 7, 1997, Zond Minnesota Development Corporation II, 13000 Jameson Road, Tehachapi, California 93561, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Zond Minnesota is a subsidiary of Zond Corporation, an indirect majority owned subsidiary of Enron Corp. Zond Minnesota will build and own a wind turbine generation facility (the Facility) near Lake Benton, Minnesota. The Facility will consist of approximately 143 wind turbines, with an aggregate nameplate capacity of 107.25 megawatts. Electric energy produced by the facility will be sold to Northern States Power Company.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Southwestern Public Service Company

[Docket No. ER97–2110–000]

Take notice that Southwestern Public Service Company (Southwestern) on May 1, 1997, tendered for filing an amendment to the above referenced Docket. The purpose of the amendment is to clarify a date in the filing.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER97–2593–000]

Take notice that on April 18, 1997, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Montaup Electric Company.

Cinergy and Montaup Electric Company are requesting an effective date of April 15, 1997.

Comment date: May 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER97–2594–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on April 18, 1997 tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, service agreements under which NYSEG will provide capacity and/or energy to American Energy Solutions (AES), Atlantic City Electric Company (Atlantic City), Baltimore Gas & Electric Company (BG&E), Burlington Electric Department (Burlington), Carolina Power and Light Company (Carolina), Central Hudson Gas & Electric Corporation (Central Hudson), Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively, Cinergy Operating Companies) (Cinergy), DuPont Power Marketing, Inc. (DuPont), Energy Transfer Group, L.L.C., (ETG), Equitable Power Services Company (Equitable), KN Marketing, Inc. (KN), Morgan Stanley Capital Group, Inc. (Morgan Stanley), Niagara Mohawk Power Corporation (Niagara Mohawk), Orange & Rockland Utilities, Inc. (O&R), Plum Street Energy Marketing, Inc. (Plum Street), The Power Company of America, L.P. (PCA), Stand Energy Corp. (Stand), USGen Power Services, L.P. (USGen), and Western Power Services, Inc. (Western) in accordance with the NYSEG market-based power sales tariff.

NYSEG has requested waiver of the notice requirements so that the service agreements with AES, Atlantic City, BG&E, Burlington, Carolina, Central Hudson, Cinergy, DuPont, ETG, Equitable, KN, Morgan Stanley, Niagara Mohawk, O&R, Plum Street, PCA, Stand, USGen and Western become effective as of April 19, 1997.

NYSEG served copies of the filing upon the New York State Public Service Commission, AES, Atlantic City, BG&E, Burlington, Carolina, Central Hudson, Cinergy, DuPont, ETG, Equitable, KN, Morgan Stanley, Niagara Mohawk, O&R, Plum Street, PCA, Stand, USGen and Western.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER96–2714–000]

Take notice that on May 2, 1997, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment called Attachment 1 to the Interconnection Agreement, which changes certain Default Power provisions previously contained in the Interconnection Agreement between PG&E and the Shelter Cove Resort Improvement District No. 1 (District), dated August 9, 1996 (Interconnection Agreement). The Interconnection Agreement supersedes the current Power Sale Agreement between District and PG&E (PG&E Rate Schedule FERC No. 90).

Copies of this filing have been served upon District, the Northern California Power Agency and the CPUC.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Electric Company

[Docket No. ER97–2731–000]

Take notice that on April 29, 1997, Commonwealth Electric Company tendered for filing its quarterly report under their Market-Based Power Sales Tariffs for the period of February 28, 1997 to March 31, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Columbia Energy Services Corp.

[Docket No. ER97–2732–000]

Take notice that on April 29, 1997, Columbia Energy Services Corporation tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 1.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. The Dayton Power and Light Company

[Docket No. ER97–2733–000]

Take notice that on April 30, 1997, the Dayton Power and Light Company (Dayton) submitted service agreements establishing Pan Energy as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon Pan Energy and the Public Utilities Commission of Ohio.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. The Dayton Power and Light Co.

[Docket No. ER97–2734–000]

Take notice that on April 30, 1997, The Dayton Power and Light Company (Dayton) submitted service agreements establishing Pacificorp Power Marketing, Inc., Virginia Electric and Power Company as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon Pacificorp Power Marketing, Inc., Virginia Electric and Power Company, and the Public Utilities Commission of Ohio.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Southern Company Services, Inc.

[Docket No. ER97–2735–000]

Take notice that on April 30, 1997, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies), submitted a report of short-term transactions that occurred under the Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) during the period January 1, 1997 through March 31, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Kentucky Utilities Company

[Docket No. ER97–2736–000]

Take notice that on April 30, 1997, Kentucky Utilities Company (KU), tendered for filing information on transactions that occurred during January 1, 1997 through March 31, 1997, pursuant to the Power Services Tariff accepted by the Commission in Docket No. ER95–854–000.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

416. Florida Power Corporation

[Docket No. ER97–2776–000]

Take notice that on April 30, 1997, Florida Power Corporation (Florida Power), tendered for filing revisions to the capacity charges, reservation fees and energy adders for various interchange services provided by Florida Power pursuant to interchange contracts as follows:

Rate schedule	Customer
65	Southeastern Power Administration.
80	Tampa Electric Company.
81	Florida Power & Light Company.
82	City of Homestead.
86	Orlando Utilities Commission.
88	Gainesville Regional Utility.
91	Jacksonville Electric Authority.
92	City of Lakeland.
94	Kissimmee Utility Authority.
95	City of St. Cloud.
100	Fort Pierce Utilities Authority.
101	City of Lake Worth.
102	Florida Power & Light Company.
103	City of Starke.
104	City of New Smyrna Beach.
105	Florida Municipal Power Agency.
108	City of Key West.
119	Reedy Creek Improvement District.
122	City of Tallahassee.
128	Seminole Electric Cooperative, Inc.
139	Oglethorpe Power Corp.
141	City of Vero Beach
142	Big Rivers Electric Corporation.
148	Alabama Electric Cooperative, Inc.
153	Enron Power Marketing, Inc.
154	Catex Vitol Electric, L.L.C.
155	Louis Dreyfus Electric Power, Inc.
156	Electric Clearing House, Inc.
157	LG & E Power Marketing, Inc.
158	MidCon Power Service Corp.
159	Koch Power Services Company 160 Sonat Power Marketing, Inc.
161	Citizens Lehman Power Sales 162 AES Power, Inc.
163	Intercoast Power Marketing Company 164 Valero Power Service Company.
165	Delhi Energy Services, Inc.
166	Eastex Power Marketing, Inc.
167	NorAm Energy Services, Inc.
168	Western Power Services.
169	CNG Power Services Corporation.
170	Calpine Power Services Company.
171	SCANA Energy Marketing, Inc.
172	PanEnergy Trading & Market Services.
173	Coral Power, L.L.C.

The interchange services which are affected by these revisions are (1) Service Schedule A—Emergency Service; (2) Service Schedule B—Short Term Firm Service; (3) Service Schedule D—Firm Service; (4) Service Schedule F—Assured Capacity and Energy Service; (5) Service Schedule G—Backup Service; (6) Service Schedule H—Reserve Service; (7) Service Schedule I—Regulation Service; (8) Service Schedule OS—Opportunity Sales; (9) Service Schedule RE—Replacement Energy Service; (10) Contract for Assured Capacity And Energy With Florida Power & Light Company; (11) Contract for Scheduled Power and Energy with Florida Power & Light Company.

Florida Power requests that the amended revised capacity charges, reservation fees and energy adder be made effective on May 1, 1997 and remain effective through April 30, 1998. Florida Power requests waiver of the Commission's sixty-day notice requirement. If waiver is denied, Florida Power requests that the filing be made effective 60 days after the filing date.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER97–2777–000]

Take notice that on April 30, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 17 to add Old Dominion Electric Cooperative to Allegheny Power Open Access Transmission Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000. West Penn requests a waiver of notice requirements and asks the Commission to honor the proposed effective date of January 1, 1997 as specified in the agreement negotiated by the parties.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Minnesota Power & Light Company

[Docket No. ER97–2778–000]

Take notice that on May 1, 1997, Minnesota Power & Light Company (Minnesota Power), tendered for filing Supplement No. 2 to the Amendment to the Municipal Service Agreement Between the City of Hibbing Public Utilities Commission and Minnesota Power & Light Company (Supplement No. 2). Minnesota Power requests an effective date 60 days from the date of filing.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Paragon Gas Marketing

[Docket No. ER97–2779–000]

Take notice that on May 1, 1997, Paragon Gas Marketing tendered for filing a Notice of Termination of Electric Rate Schedule No. 1, with a proposed effective date of May 1, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Heath Petra Resources, Inc.

[Docket No. ER97–2780–000]

Take notice that on May 1, 1997, Heath Petra Resources, Inc. tendered for filing a Notice of Termination of Electric Rate Schedule No. 1, with a proposed effective date of March 13, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Atlantic City Electric Company

[Docket No. ER97–2781–000]

Take notice that on May 1, 1997, Atlantic City Electric Company (Atlantic Electric), tendered for filing a service agreement under which Atlantic Electric will sell capacity and energy to Orange and Rockland Utilities, Inc. under Atlantic Electric's market-based rate sales tariff. Atlantic Electric requests the agreement be accepted to become effective on April 30, 1997.

Atlantic Electric states that a copy of the filing has been served on Orange and Rockland Utilities, Inc.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Northern Indiana Public Service Company

[Docket No. ER97–2782–000]

Take notice that on May 1, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and PacifiCorp Power Marketing, Inc.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to PacifiCorp Power Marketing, Inc. pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of April 17, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. American Electric Power Service Corporation

[Docket No. ER97–2784–000]

Take notice that on May 1, 1997, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the AEP Companies' Power Sales Tariffs. The Power Sales Tariff was accepted for filing effective October 1, 1995, and has been designated AEP Companies' FERC Electric Tariff First Revised Volume No. 2. AEPSC requests waiver of notice to permit the Service Agreement to be made effective for service billed on and after April 15, 1997.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Louisville Gas and Electric Company

[Docket No. ER97–2785–000]

Take notice that on April 30, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between LG&E and Equitable Power Services Company under LG&E's Open Access Transmission Tariff.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Louisville Gas and Electric Company

[Docket No. ER97–2786–000]

Take notice that on May 1, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Equitable Power Services Company under LG&E's Rate Schedule GSS.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Louisville Gas and Electric Company

[Docket No. ER97–2787–000]

Take notice that on May 1, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between LG&E and New York Electric and Gas under LG&E's Open Access Transmission Tariff.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Southwestern Public Service Company

[Docket No. ER97–2788–000]

Take notice that on May 1, 1997, Southwestern Public Service Company

(Southwestern), tendered for filing proposed amendments to its rate schedule with Central Valley Electric Cooperative, Inc., a full requirements wholesale customer.

The amendment allows this customer to participate in the interruptible load program available at all of Southwestern's full requirements wholesale customers.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Arizona Public Service Company

[Docket No. ER97–2789–000]

Take notice that on May 1, 1997, Arizona Public Service Company (APS), tendered for filing an amendment to make a correction to its Electric Coordination Tariff No. 1, Revision No. 2 filed in the above referenced dockets.

A copy of this filing has been served on all parties on the official service list.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Carolina Power & Light Company

[Docket No. ER97–2791–000]

Take notice that on May 1, 1997, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Non-Firm Point to Point Transmission Service executed between CP&L and the following Eligible Transmission Customer: Aquila Power Corporation. Service to the Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Community Electric Power Corporation

[Docket No. ER97–2792–000]

Take notice that on May 1, 1997, Community Electric Power Corporation (CEPC), petitioned the Commission for acceptance of CEPC Rate Schedule FERC No. 1, the granting of certain blanket approvals, including authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

CEPC, intends to engage in wholesale power and energy purchases and sales as a marketer. CEPC is not in the business of generating or transmitting electric power. CEPC is a Massachusetts based, private corporation.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Interstate Power Company

[Docket No. ER97–2797–000]

Take notice that on May 1, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Western Power Services Inc. Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to Western Power Services Inc.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Interstate Power Company

[Docket No. ER97–2798–000]

Take notice that on May 1, 1997, Interstate Power Company (IPW), tendered for filing three Transmission Service Agreements between IPW and CornBelt Power Cooperative (CornBelt). Under the Transmission Service Agreements, IPW will provide firm point-to-point transmission service to CornBelt.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Ohio Valley Electric Corporation, Indiana-Kentucky Electric Corporation

[Docket No. ER97–2799–000]

Take notice that on May 1, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service, dated April 10, 1997 (the Service Agreement) between American Electric Power Service Corporation (AEPSC) and OVEC. OVEC proposes an effective date of April 10, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to AEPSC.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Order No. 888 compliance filing (Docket No. OA96–190–000).

Copies of this filing were served upon the Indiana Utility Regulatory Commission, the Kentucky Public Service Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio, the Tennessee Regulatory Authority, the Virginia State Corporation Commission, the West Virginia Public Service Commission and AEPSC.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Deseret Generation & Transmission Cooperative

[Docket No. ER97–2802–000]

Take notice that on May 1, 1997, Deseret Generation & Transmission Cooperative, tendered for filing proposed rider to its Service Agreement No. 5 under FERC Electric Tariff, Original Volume No. 1. The proposed rider would result in a rate decrease in accordance with the provisions of the current rate schedule contained in Service Agreement No. 5 under FERC Electric Tariff Original Volume No. 1.

The proposed rider is being made in order to implement provisions of the current rate schedule contained in Service Agreement No. 5 which is already on file with the Commission. The current rate schedule contained in Service Agreement No. 5 is the product of a comprehensive restructuring of Deseret's financial obligations.

Copies of this filing have been served upon Deseret's jurisdictional customers.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Washington Water Power

[Docket No. ER97–2803–000]

Take notice that on May 1, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, executed Service Agreements under WWP's FERC Electric Tariff Original Volume No. 9. WWP requests waiver of the prior notice requirement and requests an effective date of April 1, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. The Detroit Edison Company

[Docket No. ER97–2804–000]

Take notice that on May 1, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement for wholesale power sales transactions (the Service Agreement) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4 (the WPS–1 Tariff), between Detroit Edison and The Dayton Power & Light Company (Dayton), dated as of April 9, 1997. Detroit Edison requests that the Service Agreement be made effective as of April 9, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. The Detroit Edison Company

[Docket No. ER97–2805–000]

Take notice that on May 1, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement for wholesale power sales transactions (the Service Agreement) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff, between Detroit Edison and The Dayton Power & Light Company (Dayton), dated as of April 9, 1997. Detroit Edison requests that the Service Agreement be made effective as of April 9, 1997.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13790 Filed 5–23–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5831–2]

Urban Wet Weather Flows Advisory Committee, the Storm Water Phase II Advisory Subcommittee, and the Sanitary Sewer Overflow Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice of charter renewal.

SUMMARY: Notice is given that the Environmental Protection Agency (EPA) is renewing the Charter for the Urban Wet Weather (UWW) Flows Advisory Committee (and its two subcommittees) for an additional 2-year period. This Committee serves the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. appl. 2 section 9(c). The purpose of the Urban Wet Weather Flows Federal Advisory Committee is to provide advice and counsel to the Administrator of EPA on issues associated with urban wet weather discharges, including municipal and industrial storm water runoff, combined sewer overflows, and sanitary sewer overflows. It is determined that the Urban Wet Weather Flows Federal Advisory Committee is in the public interest in connection with the performance of duties imposed on the Agency by law.

FOR FURTHER INFORMATION: Contact Will Hall, Office of Wastewater Management, USEPA, at (202) 260–1458, or Internet: hall.william@epamail.epa.gov

Dated: May 16, 1997.

Michael B. Cook,

Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 97–13796 Filed 5–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5832–1]

Science Advisory Board; Emergency Notification of Public Advisory Committee Meeting

June 6, 1997.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Integrated Risk Project (IRP) Steering Committee of the Science Advisory Board (SAB) will hold a teleconference meeting on June 6, 1997 from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time. The meeting is open to the public, however teleconference lines are limited. Please call Stephanie Sanzone, Designated Federal Official for the Committee, at (202) 260–6557 if you are interested in participating in the call and to obtain the dial-in number. The purpose of the teleconference meeting is to continue discussion of a conceptual framework for decision-making that utilizes information on risk, risk reduction opportunity, and economic and societal consequences of various risk reduction strategies. The Steering Committee began discussion of the framework at their meeting April 21–23, 1997. The framework is intended to be a unifying theme for the final report from the IRP that illustrates the inter-relationships between the methodologies developed by IRP Subcommittees for assessing and ranking risks to human health and the environment, identifying optimal sets of risk reduction strategies, and assessing the economic and societal consequences of both risks and risk reduction options.

Background on the Integrated Risk Project (IRP)

In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to: (a) Develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (b) provide an assessment of techniques and criteria that could be used to discriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (c) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the environmental problems identified; and (d) identify the uncertainties and data quality issues associated with the relative rankings. The project is being conducted by several SAB panels, working at the direction of an *ad hoc* Steering Committee established by the Executive Committee.

Single copies of Reducing Risk, the report of the previous relative risk ranking effort of the SAB, can be obtained by contacting the SAB's Committee Evaluation and Support Staff (1400), 401 M Street, SW, Washington, DC 20460, telephone (202) 260-8414, or fax (202) 260–1889.

For Further Information—Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Stephanie Sanzone, Designated Federal Official for the IRP Steering Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)-260–6557; fax (202)-260–7118; or via Email at: Sanzone.Stephanie@epamail.epa.gov. Requests for oral comments must be received no later than 4:00 p.m. Eastern Time on June 3, 1997. Copies of the draft meeting agenda can be obtained from Ms. Wanda Fields at (202) 260–8414 or at the above fax number or by Email to Fields.Wanda@epamail.epa.gov.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings,

opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in The FY1996 Annual Report of the Staff Director which is available from the SAB Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, 401 M Street, SW, Washington, DC 20460 or via fax (202) 260–1889. Additional information concerning the SAB can be found on the SAB Home Page at: http://www.epa/science1/.

Dated: May 21, 1997.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 97–13923 Filed 5–23–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5830–6]

Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2), notice is hereby given that the Environmental Protection Agency (EPA), Office of Research and Development's (ORD), Board of Scientific Counselors (BOSC), will hold its Executive Committee Meeting, June 9–10, 1997, at the Arlington Hilton Hotel, 950 North Stafford Street, Arlington, Virginia. On Monday, June 9, the meeting will begin at 1:00 pm and will recess at 5:00 pm, and on Tuesday, June 10, the meeting will begin at 8:00 am and will adjourn at 4:00 pm. All times noted are Eastern Time. Agenda items include, but are not limited to, Laboratory Peer Review Discussion, ORD Research Plan Evaluation: Methods Development, Research Policy and Planning, ORD Research Plans Discussion, and Discussion of ORD Laboratory/Center Peer Reviews to be conducted by the BOSC. These reviews are planned for: National Exposure Research Laboratory, July 21–22, Las Vegas, Nevada; National Health and Environmental Effects Research Laboratory, August 4–5, 1997, Research Triangle Park, North Carolina; National Risk Management Research Laboratory, August 18–19, 1997, Cincinnati, Ohio; National Center for Environmental Assessment, September 8–9, 1997, Washington, DC; and National Center for Environmental Research and Quality Assurance, September 22–23, 1997, Washington, DC. Anyone desiring a draft BOSC agenda may fax their request to Shirley R. Hamilton (202) 260–0929. The meeting is open to the public. Any member of the public wishing to make a presentation at the meeting, should contact Shirley Hamilton, Designated Federal Officer, Office of Research and Development (8701), 401 M Street, SW., Washington, DC 20460; by telephone at (202) 260–0468. In general, each individual making an oral presentation will be limited to a total time of three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC8701), 401 M Street, SW, Washington, DC 20460, 202–260–0468.

Dated: May 16, 1997.

Joseph K. Alexander,

Assistant Administrator for Research and Development.

[FR Doc. 97–13750 Filed 5–23–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

May 20, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 26, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: None (3060-XXXX).

Title: Federal-State Joint Board on Universal Service, CC Docket No. 96–45 (47 CFR 36.611–36.612 and 47 CFR part 54).

Form No.: N/A.

OMB Control No.: None.

Respondents: Business or other for-profit entities; individuals or households; not-for-profit institutions; state, local or tribal government.

Estimated Annual Burden: 5,565,451 respondents; 3.1 hours per response (avg.); 1,784,220 hours total annual burden.

Frequency of Response: On occasion, annually, one-time requirements.

Rule section/title (47 CFR)	Hours per response	Total annual burden
a. 36.611(a) & 36.612—Submission and Updating information to NECA	20	26,800
b. 54.101(c)—Demonstration of exceptional circumstances for toll-limitation grace period	50	100
c. 54.201(b)(c)—Submission of eligibility criteria	1	3,400
d. 54.201(d)(2)—Advertisement of services & charges	50	65,000
e. 54.205(a)—Advance notice of relinquishment of universal service	.5	50
f. 54.207(c)(1)—Submission of proposal for redefining a rural service area	125	6,250
g. 54.307(b)—Reporting of expenses & number of lines served.	[1] 2.5	4,100
h. 54.401(b)(1)–(2)—Submission of disconnection waiver request	2	100
i. 54.401(d)—Lifeline certification to the Administrator	1	1,300
j. 54.407(c)—Lifeline recordkeeping	80	104,000
k. 54.409(a)–(b)—Consumer qualification for Lifeline	[2] 5	440,000
l. 54.409(b)—Consumer notification of Lifeline discontinuance	[2] 5	44,000
m. 54.418(b)—Link Up recordkeeping	80	104,000
n. 54.501(d)(4) & 54.516—Schools & Libraries recordkeeping	[1] 41	372,000
o. 54.504(b)–(c), 54.507(d) & 54.509(a)—Description of services requested & certification	2	100,000
p. 54.601(b)(4) & 54.609(b)—Calculating support for health care providers	100	340,000
q. 54.601(b)(3) & 54.619—Shared facility recordkeeping	[1] 21	160,000
r. 54.607(b)(1)–(2)—Submission of proposed rural rate	3	150
s. 54.603(b)(1), 54.615(c)–(d) & 54.623(d)—Description of services requested and certification	1	12,000
t. 54.619(d)—Submission of rural health care report	40	40
u. 54.701(f)(1) & (f)(2)—Submission of annual report & CAM	40	40
v. 54.701(g)—Submission of quarterly report	10	40
w. 54.707—Submission of State commission designation	.25	850
Total Annual Burden Hours	.....	1,784,220

[1] Average. [2] Minimum.

Needs and Uses: Congress directed the Commission to implement a new set of universal service support mechanisms that are explicit and sufficient to advance the universal service principles enumerated in Section 254 of the Telecommunications Act of 1996 and such other principles as the Commission believes are necessary and appropriate for the protection of the public interest, convenience and necessity, and are consistent with the Act. In the Report and Order issued in CC Docket No. 96–45, the Commission adopts rules that are designed to implement the universal service provisions of section 254. Specifically, the Order addresses: (1) universal service principles; (2) services eligible for support; (3) affordability; (4) carriers eligible for universal service support; (5) support mechanisms for rural, insular, and high cost areas; (6) support for low-income consumers; (7) support for schools, libraries, and health care providers; (8) interstate subscriber line charge and common line cost recovery; and (9) administration of support mechanisms. The reporting and recordkeeping requirements contained in CC Docket No. 96–45 are designed to implement Section 254 follow. The reporting and recordkeeping are necessary to ensure the integrity of the program. All the collections are necessary to implement the congressional mandate for universal service. The reporting and recordkeeping requirements are necessary to verify that the carriers and other respondents are eligible to receive universal service support.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–13760 Filed 5–23–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 97–1054]

FCC Announces the Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On May 20, 1997, the Commission released a public notice announcing the eleventh meeting of the North American Numbering Council and the Agenda for that meeting. The intended effect of this action is to make the public aware of the NANC's eleventh meeting and their Agenda.

FOR FURTHER INFORMATION CONTACT: Linda Simms, Administrative Assistant of the NANC at (202) 418–2330. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20054. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION:

Released: May 20, 1997

The eleventh meeting of the North American Numbering Council (NANC) will be held on Tuesday, June 10, 1997, at 8:30 A.M. EST at the Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, DC. This meeting will be open to members of the general public. The FCC will attempt to accommodate as many people as possible. Admittance, however will be limited to the seating available. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Linda Simms at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Agenda

The planned agenda for the June 10, 1997, meeting is as follows:

1. Carrier Liaison Committee (CLC) Number Conservation Report.

2. Report from Industry Numbering Committee (INC) on Assignment Guidelines.

3. North American Numbering Plan Administrator (NANPA) Transition Planning.

4. Status Report from the ''Local Number Portability (LNP) Administration Team.''

5. Review of Decisions Reached and Action Items.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 97–13761 Filed 5–21–97; 12:14 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2199]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

May 21, 1997.

Petition for reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed June 11, 1997. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Telephone Number Portability.

(CC Docket No. 95–115, RM–8535)

Number of Petitions Filed: 2

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–13687 Filed 5–23–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–1030]

Cable Services Action; Commission Announces Change of Date for En Banc Hearing on Industry Proposal for Rating Video Programming and on ''V-Chip'' Technology

May 15, 1997.

The en banc hearing on: (1) The joint proposal submitted to the Commission on January 17, 1997 by the National Association of Broadcasters, the National Cable Television Association and the Motion Picture Association of America describing a voluntary system for rating video programming; and (2) video programming blocking technology, has been changed from June 4, 1997 to June 20, 1997. The en banc hearing will begin at 9:30 a.m. in the Commission meeting room, Room 856, 1919 M Street, N.W., Washington, D.C. 20554. The Commission will announce participants and a hearing format in the near future.

On February 7, 1997, the Commission issued a Public Notice seeking comment on the industry proposal. See Public Notice, Commission Seeks Comment on Industry Proposal for Rating Video Programming, CS Docket No. 97–55, FCC 97–34, Report No. CS 97–6 (February 7, 1997). Copies of the Public Notice, which attaches a copy of the industry proposal as an Appendix, may be obtained from the Commission's Public Reference Room, Room 239, 1919 M Street, N.W., Washington, D.C., from the Commission's Internet site (http://www.fcc.gov/vchip), or by calling ITS, the Commission's transcription service, at (202) 857–3800.

On April 23, 1997, the Commission announced that the en banc hearing would be held on June 4, 1997. See Public Notice, Commission Announces En Banc Hearing on Industry Proposal for Rating Video Programming and on ''V-Chip'' Technology, CS Docket No. 97–55, DA 97–857, 62 FR 24654 (May 6, 1997).

In order to provide interested parties an opportunity to respond to matters raised in the en banc hearing, the due date for surreply comments in CS Docket No. 97–55 is extended from June 16, 1997 to July 7, 1997.

Media Contact: Morgan Broman (202) 418–2358.

TV Ratings Contact: Meryl S. Icove or Rick Chessen (202) 418–7096.

V-chip Technology Contact: Rick Engelman (202) 418–2157.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–13688 Filed 5–23–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

K.V. Mark Corp., 5220 NW 72nd Avenue, #25, Miami, FL 33166, Officers: Priscilla F. Garcia, General Manager, Antonio Ginatta, Vice President

Interglobal Forwarders, Inc., 101 Crest Street, Greer, SC 29650, Officer: Steve E. Dew, President

USA Logistics, Incorporated, 9100 Sepulveda Blvd., Suite 204, Los Angeles, CA 90045, Officers: Frank J. Ciofalo, President, Anthony Realff, Vice President

Dated: May 21, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–13813 Filed 5–23–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank

indicated or the offices of the Board of Governors not later than June 20, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Gideon Bancshares Company, Dexter, Missouri; to acquire 92 percent of the voting shares of First Midwest Bank of Chaffee, Chaffee, Missouri.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Security Bancshares, Inc., Scott City, Kansas; to acquire 9.5 percent of the voting shares of Intra Financial Corporation, Clyde, Kansas; and thereby indirectly acquire Exchange Bank of Clyde, Clyde, Kansas; Farmers State Bancshares of Sabetha, Inc., Sabetha, Kansas; and its subsidiary, Farmers State Bank, Sabetha, Kansas; and Peoples Bancorp of Belleville, Inc., Belleville, Kansas, and its subsidiary, Peoples Bank of Belleville, Belleville, Kansas.

2. Intra Financial Corporation, Clyde, Kansas; to acquire 100 percent of the voting shares of Peoples Bancorp of Belleville, Inc., Belleville, Kansas, and thereby indirectly acquire Peoples Bank of Belleville, Belleville, Kansas.

Board of Governors of the Federal Reserve System, May 21, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13785 Filed 5–23–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated period before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 042897 AND 050997

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Mid-America Dairymen, Inc., Dairy Enterprises Corporation, Dairy Enterprises Corporation	97–1649	04/28/97
Mid-America Dairymen, Inc., Lehigh Enterprises Acquisition Corporation, Lehigh Enterprises Acquisition Corporation	97–1650	04/28/97
Steven and Suzanne Kalafer, Republic Industries, Inc., Republic Industries, Inc	97–1843	04/28/97
Republic Industries, Inc., Steven and Suzanne Kalafer, Ditschman/Flemington Ford-Lincoln-Mercury, Inc., SNDK	97–1844	04/28/97
Ultimate Electronics, Inc., Audio King Corporation, Audio King Corporation	97–1849	04/28/97
Mitsui Petrochemical Industries, Ltd., Mitsui Toatsu Chemicals, Inc., Mitsui Toatsu Chemicals, Inc	97–1853	04/28/97
The Sherwood Group, Inc., Dresdner Bank AG (a German company), Dresdner-NY Incorporated	97–1856	04/28/97
York International Corporation, Sinko Kogyo Co., Ltd. (a Japanese company), CLEANPAK International	97–1859	04/28/97
BG Distribution Partners, Ltd., Lee M. Schepps, The Julius Schepps Company	97–1866	04/28/97
BG Distribution Partners, Ltd., Joseph W. Schepps, The Julius Schepps Company	97–1867	04/28/97
Henry Schein, Inc., Micro Bio-Medics, Inc., Micro Bio-Medics, Inc	97–1869	04/28/97
Richard S. Crawford, Eagle-Picher Industries Inc. Personal Injury Settlement, Eagle-Picher Industries Inc. Personal Injury Settlement	97–1870	04/28/97
Bardon Group plc, CAMAS plc, CAMAS plc	97–1879	04/28/97
Central Garden & Pet Company, H & S Saarloos Charitable Remainder Unitrust, dtd 3/31/97, Ezell Nursery Supply, Inc	97–1880	04/28/97
Central Garden & Pet Company, L & L Saarloos Charitable Remainder Unitrust, dtd 3/31/97, Ezell Nursery Supply, Inc	97–1881	04/28/97
Protective Life Corporation, Nationwide Mutual Insurance Company, West Coast Life Insurance Company	97–1907	04/28/97
Marimutu Sinvasan (an Indonesian person), Dyersburg Corporation, Dyersburg Corporation	97–1915	04/28/97
Tomkins PLC, Bessemer Securities L.L.C., The Stant Corporation	97–1836	04/29/97
Peter A. Bordes, Evergreen Media Corporation, Evergreen Media Corporation of the City of Brotherly	97–1857	04/29/97
MedPartners, Inc., Suburban Heights Medical Center, S.C., Suburban Heights Medical Center, S.C.	97–1882	04/29/97
Fresenius Aktiengesellschaft (a German company), Jack McKenzie, SRC Holding Company	97–1883	04/29/97
Pan Am Corporation, Micky Arison 1995 Air Holding Trust, Carnival Air Lines, Inc	97–1891	04/29/97
Micky Arison 1995 Air Holding Trust, Pan Am Corporation, Pan Am Corporation	97–1892	04/29/97
Franklin Quest Co., Covey Leadership Center, Inc., Covey Leadership Center, Inc	97–1893	04/29/97
Stephen R. Covey, Franklin Quest Co., Franklin Quest Co	97–1894	04/29/97
Citadel Communications Corporation, Everett I. Mundy, Tele-Media Broadcasting Company	97–1895	04/29/97
Citadel Communications Corporation, Robert E. Tudek, Tele-Media Broadcasting Company	97–1896	04/29/97
Knight-Ridder, Inc., The Walt Disney Company, ABC Media, Inc	97–1898	04/29/97
Lend Lease Corporation Limited, AXA, Equitable Real Estate Investment Management, Inc	97–1899	04/29/97
Jacor Communications, Inc., Premiere Radio Networks. Inc., Premiere Radio Networks, Inc	97–1908	04/29/97
Nils Foss, Perstorp AB (a Swedish company), Perstorp Analytical, Inc	97–1860	04/30/97
Hicks, Muse, Tate & Furst Equity Fund III, L.P., Benchmark Communications Radio Limited Partnership, Benchmark Communications Radio Limited Partnership	97–1021	05/02/97
Superior Carriers, Incorporated, Archie L. Honbarrier, Central Transport, Inc	97–1783	05/02/97
American Securities Partners, L.P., Butler Manufacturing Company, Butler Manufacturing Company, Grain Systems Division	97–1813	05/02/97
Alcatel Alsthom, Loral Space & Communications Ltd., Loral Space & Communications Ltd	97–1835	05/02/97
The Hearst Trust, Lowell W. Paxson, Paxson Communications Corp	97–1854	05/02/97
Robert F. X. Sillerman, The Hearst Trust, The Hearst Corporation	97–1855	05/02/97
Continental Grain Company, Campbell Soup Company, Campbell Soup Company	97–1874	05/02/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 042897 AND 050997—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Glenn R. Jones, Jones Intercable Investors, L.P., Jones Intercable Investors, L.P	97–1876	05/02/97
Samsung Electronic Co., Ltd., AST Research, Inc., AST Research, Inc	97–1884	05/02/97
Camco International, Inc., Production Operators Corp., Production Operators Corp	97–1890	05/02/97
Michigan Physicians Mutual Liability Company, New Mexico Physicians Mutual Liability Company, New Mexico Physicians Mutual Liability Company	97–1897	05/02/97
Deseret Management Corporation, Evergreen Media Corporation, Evergreen Media Corporation of Chicago FM, Evergreen	97–1910	05/02/97
Louis J. Appell Residuary Trust, Evergreen Media Corporation, Evergreen Media/Pyramid Holdings Corporation	97–1921	05/02/97
General Parts, Inc., Rollance E. Olson, Parts Depot Company, L.P	97–1928	05/02/97
AmeriTruck Distribution Corp., ConAgra, Inc., Monfort Transportation Co., Inc	97–1930	05/02/97
Ridley Corporation Limited, Windy Hill Pet Food Company L.L.C., Hubbard Milling Company	97–1931	05/02/97
Edward D. Hammer, Republic Industries, Inc., Republic Industries, Inc	97–1937	05/02/97
Clear Channel Communications, Inc., Capitol Broadcasting Company L.L.C., Capitol Broadcasting Company, L.L.C	97–1942	05/02/97
Republic Industries, Inc., Spirit Rent-A-Car, Inc., Spirit Rent-A-Car, Inc	97–1945	05/02/97
O. Gene Bicknell, Jamie B. Coulter, ''Pizza Hut Corporations'' and Summit Leasing Company L.L.C	97–1951	05/02/97
Jacor Communications, Inc., The News Corporation Limited, Archon Communications, Inc	97–1953	05/02/97
NORCAL Mutual Insurance Company, Medical Mutual Liability Insurance Society of Maryland, Medical Mutual Group Holdings, Inc	97–1956	05/02/97
Kenneth A. Hendricks, David Trachten, Viking Building Products, Inc	97–1963	05/02/97
Michigan Pizza Hut, Inc., PepsiCo, Inc., Pizza Hut, Inc	97–1968	05/02/97
Giant Industries, Inc., Jerry D. and Phyllis Jane Clayton, Thriftway Marketing Corp	97–1994	05/02/97
Coltec Industries, Inc., AMI Industries, Inc., AMI Industries, Inc	97–1936	05/05/97
Philip Environmental Inc., Allwaste, Inc., Allwaste, Inc	97–1804	05/06/97
Philip Environmental Inc., Serv-Tech, Inc., Serv-Tech, Inc	97–1805	05/06/97
Becton, Dickinson and Company, PharMingen, PharMingen	97–1817	05/06/97
Key Components, Inc., Jordon Industries, Inc., Hudson Lock, Inc	97–1886	05/06/97
The Principal Financial Group, Marsh & McLennan Companies, Inc., Trust Consultants, Inc	97–1888	05/06/97
Moore Corporation Limited, The Peak Technologies Group, Inc., The Peak Technologies Group, Inc	97–1925	05/06/97
Neptune Orient Lines Limited, APL Limited, APL Limited	97–1935	05/06/97
HIG Investment Group, L.P., Let's Talk Cellular of America, Inc., Let's Talk Cellular of America, Inc	97–1939	05/06/97
Harbinger Independent Power Fund I, L.L.C., Mitsubishi Corporation (a Japanese Corporation), Diamond Energy Inc., Moose River Properties Inc	97–1948	05/06/97
Empresa Nacional de Electricidad, S.A., Ashland Inc., AMC Merger Corporation	97–1952	05/06/97
Duke Power Company, S.A. Louis Dreyfus et Cie, Duke/Louis Dreyfus L.L.C	97–1954	05/06/97
Duke Power Company, Duke Power Company, Duke/Louis Dreyfus L.L.C	97–1955	05/06/97
Sterling Software, Inc., Texas Instruments Incorporated, Texas Instruments Incorporated	97–1958	05/06/97
The Walt Disney Company, Hicks, Muse, Tate & Furst Equity Fund II, L.P., Chancellor Radio Broadcasting Company	97–1959	05/06/97
The Walt Disney Company, Evergreen Media Corporation, Evergreen Media Corporation of Los Angeles	97–1960	05/06/97
OY Rapala Group Ltd., NC Holdings I, Inc., NC Holdings, I, Inc	97–1967	05/06/97
Pacific Mutual Life Insurance Company, Thomson Advisory Group, Inc., Thomson Advisory Group, Inc	97–1972	05/06/97
Pacific Mutual Life Insurance Company, Oppenheimer & Co., L.P., Oppenheimer Group, Inc	97–1980	05/06/97
Oppenheimer & Co., L.P., Pacific Mutual Life Insurance Company, Thomson Advisory Group, Inc	97–1981	05/06/97
MCN Energy Group, Inc., Pan Energy Corporation, Source Cogeneration Co., Inc., Summit Computing, Inc	97–1987	05/06/97
Novell, Inc., Novonyx, Inc., Novonyx, Inc	97–1797	05/07/97
Merck & Co., Inc., Istituto Gentili, S.p.A., Istituto Gentili, S.p.A	97–1815	05/07/97
Telephone and Data Systems, Inc. Voting Trust, New Hope Cellular Cooperative, Huntsville Cellular Telephone Corp., Inc	97–1837	05/07/97
Sumner M. Redstone, George A. Vandeman, Channel 34 Television Station, Inc	97–1933	05/07/97
American International Group, Inc., Ameritech Corporation, Ameritech Communications of Ohio, Inc	97–1949	05/07/97
FW Strategic Partners, L.P., Odyssey Partners, L.P., Scotsman Holdings, Inc	97–1950	05/07/97
Cypress Merchant Banking Partners, L.P. Odyssey Partners, L.P., Scotsman Holdings, Inc	97–1957	05/07/97
Code, Hennessy & Simmons II, L.P., Karl R. Zimmer, Jr., and Barbara Zimmer, Zimmer Paper Products, Inc	97–1962	05/07/97
Alltel Corporation, Alltel Corporation, Savannah MSA Cellular Partnership	97–1969	05/07/97
Apollo Investment Fund III, L.P., Allied Waste Industries, Inc., Allied Waste Industries, Inc.	97–1971	05/07/97
H&R Block, Inc., Fleet Financial Group, Inc., Option One Mortgage Corporation	97–1988	05/07/97
DI Industries, Inc., Grey Wolf Drilling Company, Grey Wolf Drilling Company	97–1990	05/07/97
James K.B. & Audrey Nelson, DI Industries, Inc., DI Industries, Inc	97–1991	05/07/97
Manor Care, Inc, Vitalink Pharmacy Services, Inc., Vitalink Pharmacy Services, Inc	97–1828	05/09/97
US Robotics Corporation, 3Com Corporation, 3Com Corporation	97–1885	05/09/97
Pioneer Natural Resources Company, Parker & Parsley Petroleum Company, Parker & Parsley Petroleum Company	97–1909	05/09/97
Olicom A/S (a Danish company), CrossComm Corporation, CrossComm Corporation	97–1941	05/09/97
Blackstone Capital Partners II Merchant Banking Fund LP, Allied Waste Industries, Inc., Allied Waste Industries, Inc	97–1964	05/09/97
Blackstone Offshore Capital Partners, II L.P., Allied Waste, Inc., Allied Waste, Inc	97–1965	05/09/97
Blackstone Family Investment Partnership II L.P., Allied Waste Industries, Inc., Allied Waste Industries, Inc	97–1966	05/09/97
PictureTel Corporation, MultiLink, Inc., MultiLink, Inc	97–1973	05/09/97
Trinity Industries, Inc., Ladish Co., Inc., Industrial Products Division	97–1974	05/09/97
Vanstar Corporation, A. Salam Qureishi, Sysorex International, Inc	97–1985	05/09/97
Electronic Data Systems Corporation, State Street Corporation, Wendover Financial Services Corporation	97–1986	05/09/97
Virginia Mason Health System, Group Health Cooperative of Puget Sound, Virginia Mason Health Plan, Inc	97–1993	05/09/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 042897 AND 050997—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
American Homestar Corporation, Brilliant Holding Corporation, Brilliant Holding Corporation	97–1995	05/09/97
The Hearst Trust, Bob Marbut, Argyle Television, Inc	97–1999	05/09/97
Bob Marbut, The Hearst Trust, Hearst-Argyle Television, Inc	97–2000	05/09/97
MedPartners, Inc., Karl G. Mangold, Karl G. Mangold, Inc	97–2020	05/09/97
MedPartners, Inc., Herschel Fischer, Herschel Fischer, Inc	97–2021	05/09/97
Joseph Littlejohn & Levy Fund II, L.P., Jay D. Zingg, MSI Manufacturing Group, Inc	97–2022	05/09/97
Joseph Littlejohn & Levy Fund II, L.P., Helmut F. Homann, MSI Manufacturing Group, Inc	97–2023	05/09/97
Mezzanine Lending Associates III, L.P., Code, Hennessy & Simmons II, L.P., Omega Holdings, Inc	97–2024	05/09/97
Genstar Capital Partners II, L.P., E. I. du Pont de Nemours and Company, E. I. de Pont de Nemours and Company	97–2028	05/09/97
Sisters of St. Joseph of Orange, American Province of Little Company of Mary Sisters, Little Company of Mary Health Services	97–2029	05/09/97
GKN plc, Sinter Metals, Inc., Sinter Metals, Inc	97–2032	05/09/97
Evergreen Media Corporation, Gannett Co., Inc., Pacific and Southern Company, Inc	97–2047	05/09/97
Warbug, Pincus Ventures, L.P., Coventry Corporation, Coventry Corporation	97–2052	05/09/97
Roger S. Penske, Carrie B. DeWitt, North Carolina Motor Speedway, Inc	97–2063	05/09/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–13774 Filed 5–23–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Planning and Evaluation, Notice Inviting Applications for New Award for Fiscal Year 1997

AGENCY: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) and the Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS).

ACTION: Announcement of the availability of funds and request for applications to research and analyze the economic and health status of immigrants, their communities and the organizations that serve them.

SUMMARY: The purpose of this project is to describe the economic and health status of immigrants, their communities and the organizations that serve them. Given the recent change in law related to immigrants, (to the extent possible) the project should seek to describe the effects of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) on low-income immigrants, their communities and the organizations that serve them, and describe how each of these groups or organizations have adapted to the new law. Eligible projects should focus on at least two communities with a high concentration of immigrants.

ASPE and ACF with support from the Health Care Financing Administration and the Food and Consumer Service intend to fund this project for a period of three years. We anticipate total funding of approximately $2.5 million over the three-year funding period. This project will be funded through a cooperative agreement with the Awardee. Cooperative agreements allow for more involvement and collaboration by the government in the affairs of the project than other grants but it provides less direction of project activities than a contract. Although we will entertain either a new community level study or an add-on to an existing study in which the Department's funds are utilized for the specific purposes outlined in this Announcement, we anticipate that it is more likely that we will add-on to an existing study. The Terms of Award are in addition to, not in lieu of, otherwise applicable guidelines and procedures.

DATES: The deadline for submission of applications under this announcement is July 22, 1997.

MAILING ADDRESS: Application instructions and forms should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 405F, Hubert H. Humphrey Building, Washington, D.C. 20201, Telephone: (202) 690–8794. Requests for forms and questions (administrative and technical) will be accepted and responded to up to 30 days prior to closing date of receipt of Applications. Application submissions may not be faxed.

FOR FURTHER INFORMATION CONTACT: Technical questions should be directed to Jason Cohen, DHHS, ASPE, Telephone, 202–690–5880. Questions may also be faxed to 202–690–6562. Written technical questions should be addressed to Mr. Cohen at the following address. Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 404E, Hubert H. Humphrey Building, Washinton, D.C. 20201, Telephone (202) 690–5880.

SUPPLEMENTARY INFORMATION:

Part I

Legislative Authority

This cooperative agreement is authorized by the Head Start Act, the Older Americans Act of 1965, Section 241 of the Public Health Services Act and Section 1110 of the Social Security Act (42 U.S.C. 1310) and awards will be made from funds appropriated under Public Law 104–208 Omnibus Consolidated Appropriation Act for FY 1997.

Eligible Applicants

Pursuant to section 1110 of the Social Security Act, any public or private nonprofit organizations including universities and other institutions of higher education, may apply. Applications may also be submitted by private for-profit organizations. However, for-profit organizations are advised that cooperative agreement funds may not be paid as profit to any recipient of a grant or subgrant. Profit is any amount in excess of allowable direct and indirect costs of the recipient.

Available Funds

1. ASPE and ACF anticipate providing $2.5 million over three years pursuant to this announcement.

2. Applications are to include separate estimates for each of the three years, if funding levels are expected to be substantially different in subsequent years.

3. Funding for the second and third years of this project is subject to future appropriations and approval of the Assistant Secretary. ASPE and ACF expect, however, that this project will be supported during future fiscal years so that the total award is approximately $2.5 million. Although a single award is anticipated, nothing in this announcement restricts the ability of the Assistant Secretary for Planning and Evaluation to make more than one award or to make an award for less money.

Background

There is a critical need for better information regarding immigrants' use of benefits and services, especially better data on the economic and health status of immigrant families with children and their communities. This project will establish new data and analysis on the economic and health conditions of immigrants and their communities, and will begin to evaluate the effects of recent changes in legal immigrant eligibility for assistance.

Each of the major data sources is currently inadequate to fully estimate the economic and health status of immigrants, or to analyze immigrants' utilization of benefits and services. For example, most survey based data—including the 1990 Decennial Census, Current Population Survey (CPS), the Survey on Income and Program Participation (SIPP), and the Panel Survey on Income Dynamics (PSID)—do not provide enough detail regarding noncitizen status to differentiate among immigrant categories (e.g., legal permanent residents, refugees/asylees, parolees, illegal immigrants, temporary residents, etc.). Information that differentiates immigrants by their immigration or citizenship status is critical. For example, under PRWORA certain noncitizens such as refugees and asylees retain some eligibility for federal and state benefits while other non-citizens including illegal immigrants have never been eligible for most benefits.

Another limitation of the CPS, SIPP, and PSID surveys are that due to sample size they can only provide reliable national level estimates that do not permit subgroup analysis for different categories of immigrants. While both the Census and CPS gather health insurance information that distinguish between Medicare, Medicaid, and state health insurance program participation comparisons with Administrative data suggest that there are some limitations to these health coverage estimates. The SIPP and PSID longitudinal surveys contain detailed and useful information on individual and family income and program participation. However, both surveys provide only national estimates. The CPS, SIPP and PSID have recently added additional questions that should provide better estimates of types of noncitizens in the near future.

While the 1990 Decennial Census has noncitizen sample sizes sufficient to generate state and local level estimates, its measurement of cash ''public assistance'' combines Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and state/local general assistance. Moreover, the 1990 Decennial Census data lack information on non-cash assistance, including food stamp benefits. Finally, major health-related surveys such as the National Health Interview Survey (NHIS) and the new Medical Expenditure Panel Survey (MEPS) do not include citizenship and immigration status variables.

In contrast to these survey-based data sources, there are some administrative data sources that provide information about immigrant benefit utilization. The principal advantages of these data sets are that they provide a more reliable estimate of individuals receiving benefits compared to survey data, and they differentiate among different types of immigrants. In particular, SSI administrative data are useful in estimating the receipt of SSI by different immigrants (i.e., naturalized citizens, legal permanent residents, refugees, asylees, parolees, etc.). Similarly, AFDC and Food Stamp Quality Control (QC) administrative data provide estimates of different types of immigrants. However, AFDC and Food Stamps data are not as reliable as SSI data since they are based on smaller samples of administrative data collected by states. All of these administrative data sets do not account accurately for changes in immigrants' status—either to another immigration status, or to naturalized citizen. In addition, they only yield reliable state level immigrant estimates for states with a large number of immigrants receiving benefits. Also, administrative data sources only provide data on program participants. Information regarding non-citizens that become ineligible for benefits will not longer be captured by administrative data.

While documenting the economic and health status of immigrants would prove valuable even in the absence of recent legislation, the new welfare law makes additional data collection and analysis describing the condition of this population imperative. In the past, immigration legislation has regulated immigration by limiting the types and number of immigrants allowed entry; PRWORA however, marks a new direction in modern U.S. immigrant policies by establishing a federal policy that excludes many newcomers from major assistance programs based solely on their immigrant status.

The immigrant eligibility provisions within PRWORA are very complex. After August 1997, legal permanent resident aliens currently receiving SSI and food stamp benefits residing in the U.S. prior to passage of PRWORA on August 22, 1996 will lose eligibility unless they become U.S. citizens, can show proof that they were admitted as a refugee or an asylee within the past five years, have worked for 10 years in this country (or were married to a worker or the minor child of a worker) or have served in the U.S. Armed Forces. New applicants lost eligibility for SSI and food stamps in September 1996, unless they met one of the criteria listed above. Legal immigrants admitted after September 1996 are barred from a variety of other Federal and State benefits. States also have the option of barring legal permanent resident aliens from TANF and Medicaid.

The Congressional Budget Office (CBO) has estimated that nearly one-half of the savings, or $23.8 billion, from welfare reform will be due to the immigrant eligibility restrictions. While the numbers of immigrants losing benefits from TANF and Medicaid are uncertain because it is not known which States will provide these benefits to legal resident aliens, CBO estimated that by August 22, 1997 half a million elderly and disabled beneficiaries will be terminated from the SSI program; almost a million immigrants will lose food stamps.

At the time of this writing, a tentative budget agreement has been reached that would restore benefits to some immigrants. While the particular policy details have not yet been totally resolved, it appears that at a minimum, current recipients, children and those with old affidavits of support who are disabled after entry will remain eligible to receive SSI and Medicaid. In addition, refugees and asylees will remain eligible for SSI and Medicaid for seven years. While this agreement would restore benefits for some immigrants, there would remain many

immigrants whose eligibility for benefits would be in jeopardy.

The limitations of both administrative and survey data described above indicate the critical need for additional information on immigrants and their communities, particularly information which can differentiate among different types of immigrants, describe their health and economic status, and provide estimates of benefit utilization and health insurance status. This project would provide useful data for researchers to conduct secondary analysis and critical information to policy makers as they consider policies regarding this population in the future. The significant change in law with respect to immigrants makes it even more important that this information be gathered and analyzed quickly. As noted above, many of the provisions related to immigrants are already in effect making it even more important to gather information regarding immigrants' economic and health status as the law becomes fully implemented and to examine how conditions change as a result of the new law.

This project should also measure the food security of immigrants. For many immigrants, the loss of cash assistance and food stamps may lead to increased hardship in meeting their economic and food needs. The Food and Consumer Service has coordinated the development of a standardized national survey instrument for measuring the prevalence and severity of food insecurity and hunger in U.S. households. These concepts have evolved into widely accepted definitions within the scientific and food policy communities in recent years and these questions are now being used in the national surveys described above.

It is also important to describe how immigrant families interact with community organizations and service providers. Many of these organizations currently play a vital role in providing support to immigrant families and may be called upon for additional support in the aftermath of the new welfare law. For example, since many legal immigrants may no longer be eligible for regular Medicaid health coverage it will be important to understand the impact on hospitals and other service providers, how they react in response to the change in law and how it affects the health of immigrants themselves. Similarly, community organizations (e.g., mutual assistance associations) and religious institutions often play an important role in the lives of immigrant families. This project will seek to improve our understanding of that role and how it is affected by the change in law.

Part II—Purpose and Responsibilities

Purpose

The purpose of this cooperative agreement is to fund a research project that will describe the economic and health status of immigrants, their communities and the organizations that serve them. The project should also (to the extent possible) describe the effects of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) on low-income immigrant families with children, their communities, and the health and human service organizations serving them and describe how each is adapting to welfare reform.

Grantee Responsibilities

1. The Grantee should propose a project that will be able to describe conditions within the topic areas underlined below. The project should explore the relationships among immigrant families (including children and the elderly), service providers, and community organizations within each topic. Questions listed next to each topic suggest the type of information in which ASPE and ACF have particular interest. To the extent possible, the project should also examine PRWORA's impact on each of these areas.

- *Employment:* More specific research questions could include the following: What type of jobs do immigrants hold? How long do they stay in their jobs? What level of wages do they receive and how much do they receive in total earnings? What fringe benefits do they receive from their employers? What are the child care arrangements for employed immigrants?
- *Immigrants' Income/Assistance:* What are their sources of income and how much do they receive from each source? What means-tested and other public benefits and assistance do they receive? What is the ratio of assistance to total income? What types of assistance and services are received and from whom (public or private service providers, friends, family, etc.)?
- *Immigrant Service Provider Financing:* How has service provider financing been affected by changes in immigrants' eligibility for services, such as Medicaid, and has this affected service delivery and if so, how?
- *Health Status:* What is the health status of immigrants within each community? How do adult and child immigrants fare on the major health indicators? What types of health insurance coverage are available to and accessed by immigrants and their families?
- *Access to Services:* Do immigrants have adequate access to health and human services? Are there any unmet needs due to access limitations? To what extent is access to services determined by eligibility for benefits?
- *Food Security:* What is the level of food insecurity and hunger among immigrants? What is the demand for community-based food assistance? What sources do immigrants turn to in order to meet their food needs?
- *Role of Community Organizations:* What type and how much assistance do immigrants receive from community organizations including religious institutions? How have these organizations helped immigrants adapt to the new welfare law?

There is reason to believe that PRWORA may significantly affect immigrants' economic and health status making it even more important to examine how their conditions change as the law becomes fully implemented. Special consideration will be given to projects that demonstrate that they will make a concerted effort to examine the impact of the new law on immigrants and their service providers. ASPE and ACF are particularly interested in immigrant households that received SSI, Medicaid, and/or food stamps prior to enactment of PRWORA but have since become ineligible for benefits due to the new law.

Eligible projects should focus on at least two communities with high densities of immigrants. It is desirable to understand the conditions and adaptation to the new law of as many different immigrant groups as possible given the constraints of available funds. Selecting sites with different local welfare reform policies regarding immigrants is encouraged.

The project should attempt to describe conditions for all members of the immigrants' household and should distinguish household members' conditions by immigration and citizenship status as well as length of stay in this country. To the extent possible, information on immigration status should include information on the immigrant's sponsors, if applicable.

The project should also answer the relevant research questions above from the standpoint of service providers and community organizations. This could be accomplished either through an ethnographic study, conducting interviews or by examining administrative records. These organizations could include, but are not limited to, hospitals, clinics, Head Start centers, social service providers, child

care facilities, Mutual Assistance Associations and public health authorities. Information from these organizations should describe the relationship between immigrant families and the community, the types of support community organizations provide to immigrant families, and, to the extent possible, how these organizations respond to PRWORA including outreach efforts to explain changes in law to beneficiaries.

2. In the spirit of the cooperative agreement, the Grantee should provide monthly updates to inform the Federal Project Officer of research developments and the status of project activities.

3. With input from the Federal Project Officer, the Grantee should select an Advisory Panel to provide guidance in project development. The Advisory Panel may participate in subsequent meetings between the Federal Project Officer and the Grantee. The Grantee may be responsible for the Advisory Board's travel and related expenses, if any.

4. Prior to completion of the work plan (analysis plan), the Grantee should meet with relevant federal personnel in Washington, D.C. to discuss the preliminary methodology and design of the research project including what research questions will be answered and what methodology the Grantee will employ to answer the questions. Federal personnel will have the opportunity to provide input and suggestions in these areas. If this project is an add-on to an existing project, the Federal Project Officer should be invited to participate in other meetings in which the Grantee is involved in discussions regarding critical aspects of the project with other funders.

5. After consultation, the Grantee should submit a final work plan that is based on and updates the work plan submitted in the original application. The plan should include the following:

(a) Complete list of research questions the project will answer and the variables that will be used to answer each question. These variables could include (but are not limited to) immigration status and demographic information for all members of the household including family structure; income level and source; benefit eligibility and history, employment history; health status, health insurance.

(b) Identify and describe the methodology used to gather information on immigrants and communities with respect to these variables and the analysis to be performed.

(c) Identify how the proposed variables and data sets will be used by the Grantee to answer the research questions described in the work plan.

(d) Identify the methodology the Grantee will use to analyze the effect of local economic, demographic and programmatic changes on immigrants' economic and health conditions.

(e) Identify important questions/issues for which data currently are not available, and strategies for dealing with this lack of data when it pertains to the research questions in the work plan.

(f) Describe the results that will be produced and construct table shells illustrating how these results will be presented.

6. Once initial data analyses have been conducted, the Grantee should meet with relevant federal personnel in Washington, D.C. to discuss preliminary findings and the format for the final report. In the spirit of a cooperative agreement, the Grantee should work with Federal personnel to determine the need for additional data collection or analysis.

7. After completing their analysis, the Grantee will prepare a final report describing the procedures used to conduct the analysis, barriers encountered in completing the project and the results of their analysis. A draft of this report should be delivered to the Federal project officer before the completion of the project. The Federal Project Officer will return comments on the draft report to the Grantee and a final report that reflects the comments of the Federal Project Officer should be delivered to the Grants Officer before the completion of the project. The report should be provided to the Grants Officer both in hard copy and on 3.5'' floppy disk in a format that is agreed upon by both parties.

8. Following the completion of the final report, the Grantee should conduct a briefing in Washington, D.C. for Federal personnel regarding the results of the analyses. The Grantee should be responsible for assembling and copying any necessary briefing materials. The briefing should take place before the completion of the project.

9. The Grantee will make data and analysis completed as a result of this project available to the research community and the government through a public-use data file.

ASPE Responsibilities

1. Provide input into the final work plan, including methodology, design, and dissemination plan.

2. Provide consultation and technical assistance in planning, and operating program activities.

3. Work with the Grantee to determine appropriate data analysis.

4. Assist in the transfer of information to appropriate Federal, state and local entities.

5. Review Grantee activities and provide feedback to ensure that objectives and award conditions are being met. ASPE retains the right to withhold future year funding if technical performance requirements are not met.

Part III—Application Preparation and Evaluation Criteria

This section contains information on the preparation of applications for submission under this announcement, on the forms necessary for submission, and on the evaluation criteria under which the applications will be reviewed. Potential applicants should read this section carefully in conjunction with the information provided above. The application must contain the required Federal forms, title page, table of contents, and the sections listed below. All pages of the narrative should be numbered.

The application should include the following elements:

1. *Abstract:* A one page summary of the proposed project.

2. *Goals and objective of the project:* An overview that describes (1) the project, (2) the specific research questions to be investigated, (3) proposed accomplishments, and (4) knowledge and information to be gained from the project by the applicant, the government, and the research community.

3. *Methodology and Design:* Provide a description and justification of how the proposed research project will be implemented, including methodologies, chosen approach, data, expected legal and immigrant status of the population studied, and proposed research and analytic plans. Describe how the design will distinguish information by immigrant and citizenship status.

Identify theoretical or empirical basis for the methodology and approach proposed. Explain how results will be compared across sites and to the overall population. Specify how the study will protect the confidentiality of subjects (including legal and illegal) and the information they provide. Describe how the project will address potential difficulties in studying the immigrant population such as recruitment challenges and language and cultural differences, if applicable.

4. *Experience, capacity, qualifications, and use of staff:* Briefly describe the applicant's organizational capabilities and experience in conducting pertinent research projects. Identify the key staff who are expected

to carry out the research project and provide a curriculum vitae for each person. Provide a discussion of how key staff will contribute to the success of the project. Demonstrate an ability to address language and cultural issues that may arise in working with nonnative populations.

Applicants may also choose to work with other researchers with a particular desired expertise such as health services researchers. If the applicant plans to contract for outside staff for this project, the relationship and commitment of these people to the applicant organization should be demonstrated.

Applicants should demonstrate access to computer hardware and software for storing and analyzing the data necessary to complete this project.

5. *Work plan:* A work plan should be included which describes the start and end dates of the project, the responsibilities of each of the key staff, and a time line which indicates the sequence of tasks necessary for the completion of the project. It should identify other time commitments of key staff members such as other projects and/or teaching or managerial responsibilities. The work plan should include a discussion of plans for dissemination of the results of the study, e.g., articles in journals and presentations at conferences.

6. *Budget:* Applicants must submit a request for federal funds using Standard Form 424A and include a detailed breakdown of all Federal line items. A narrative explanation of the budget should be included which explains fund usage in more detail. The applicant should clearly state how the funds associated with this announcement will be used and describe the extent to which these funds will be used for purposes that would not otherwise be incorporated within the project. The applicant should also document the level of funding from other sources and describe how these funds will be utilized.

Review Process and Funding Information

A Federal panel will review and score all applications that are submitted by the deadline date and which meet the screening criteria (all information and documents as required by this Announcement.) The panel will review the applications using the evaluation criteria listed below to score each application. These review results will be the primary element used by the ASPE in making funding decisions. The Department reserves the option to discuss applications with other Federal or State staff, specialists, experts and the general public. Comments from these sources, along with those of the reviewers, will be kept from inappropriate disclosure and may be considered in making an award decision.

State Single Point of Contact (E.O. No. 12372)

DHHS has determined that this program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. 12372.

Deadline for Submission of Applications

The closing date for submittal of applications under this announcement is July 22, 1997. Hand-delivered applications will be accepted Monday through Friday, excluding Federal holidays during the working hours of 9:00 a.m. to 4:30 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue, SW. in Washington, DC. When hand-delivering an application, call (202) 690–8794 from the lobby for pick up. A staff person will be available to receive applications. Faxed applications will not be accepted.

An application will be considered as meeting the deadline if it is either (1) received at, or hand-delivered to, the mailing address on or before July 22, 1997, or (2) postmarked before midnight July 22, 1997 and received in time to be considered during the competitive review process (within two weeks of the deadline date).

When mailing applications, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.) or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the deadline are considered late applications and will not be considered or reviewed in the current competition. DHHS will send a letter to this effect to each late applicant.

DHHS reserves the right to extend the deadline for all proposals due to natural disasters, such as floods, hurricanes, or earthquakes; or if there is a widespread disruption of the mail; or if DHHS determines a deadline extension to be in the best interest of the government. However, DHHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Application Forms

Copies of applications should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 405F, Hubert H. Humphrey Building, Washington, D.C. 20201, Telephone: (202) 690–8794. Requests for forms and questions (administrative and technical) will be accepted and responded to up to 30 days prior to closing date of receipt of applications. Applications will not be faxed.

Also see section entitled ''Components of a Complete Application.'' All of these documents must accompany the application package.

Length of Application

Applications should be as brief as possible but should assure successful communication of the applicant's proposal to the reviewers. In no case shall an application (excluding the resumes, appendix and other appropriate attachments) be longer than 30 single spaced pages. Applications should be neither unduly elaborate nor contain voluminous supporting documentation.

Selection Process and Evaluation Criteria

Selection of the successful applicant will be based on the technical and financial criteria described in this announcement. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments and assign numerical scores. The review panel will prepare a summary of all applicant scores and strengths/weaknesses and recommendations and submit it to the ASPE for final decisions on the award.

The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review process. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications. Applications will be reviewed as follows:

Three (3) copies of each application are required. Applicants are encouraged to send an additional seven (7) copies of

their application to ease processing, but applicants will not be penalized if these extra copies are not included.

Applications will be judged according to the criteria set forth below:

1. *Goals, Objectives, and Potential Usefulness of the Analyses* (20 points). The potential usefulness of the objectives and how the anticipated results of the proposed project will advance policy knowledge and development. Applicants will be judged on the extent to which the proposed research questions address the required topics listed in this announcement and whether answers to these questions will effectively describe the economic and health status of immigrants, their communities and the organizations that serve them. Special consideration will be given to projects that demonstrate that they will make a concerted effort to describe economic and health status changes, if any, in the aftermath of the new law.

2. *Quality and Soundness of Methodology and Design* (40 points). The appropriateness, soundness, and cost-effectiveness of the methodology, including the research design, statistical techniques, analytical strategies, selection of existing data sets, and other procedures. Reviewers will evaluate the sites selected for the study on the basis of the concentration of immigrants living there, the diversity of the immigrant population both in country of origin and their immigration status, and in diversity between sites in terms of local welfare reform policies. Special consideration will be granted to proposals that seek to examine more sites with a greater diversity of immigrants and greater variation in local policy parameters without compromising the research questions to be answered or the methodology to be employed.

Reviewers will also judge whether the proposed methodology is likely to accurately describe immigrants' status as suggested by the topics listed in Part II of this announcement and provide descriptions by immigrant and citizenship status. Reviewers will rate the extent to which the methodology employs standard definitions and variables for answering our research questions that are comparable to definitions and variables used in nationally recognized assessment tools such as the CPS, SIPP, NHIS, and MEPS. Reviewers will also examine whether the proposed methodology will accurately describe the interaction between immigrants, their communities and service providers. To the extent that projects seek to examine the effects of PRWORA, reviewers will also judge the ability of the applicant's proposed methodology to reliably attribute impacts.

3. *Qualifications of Personnel and Organizational Capability.* (20 points). The qualifications of the project personnel for conducting the proposed research as evidenced by professional training and experience, and the capacity of the organization to provide the infrastructure and support necessary for the project. Reviewers will evaluate the applicant's principal investigator and staff on research experience and demonstrated research skills. Ratings may consider references on prior research projects. Principal investigator and staff time commitments also will be a factor in the evaluation. Special consideration will be given to applicants that collaborate with organizations that frequently work with immigrant populations. Reviewers will rate the applicant's pledge and ability to work in collaboration with other scholars or organizations in search of similar goals. Reviewers also will evaluate the applicant's demonstrated capacity to work with a range of government agencies.

4. *Ability of the Work Plan and Budget to Successfully Achieve the Project's Objectives.* (20 points). Reviewers will examine if the work plan and budget are reasonable and sufficient to ensure timely implementation and completion of the study and whether the applicant demonstrates an adequate level of understanding by the applicant of the practical problems of conducting such a project. Reviewers will judge whether there is an ''added benefit'' from providing these funds. In other words, is the applicant using federal funds for purposes that would not otherwise be funded. Reviewers will also consider whether the budget assures an efficient and effective allocation of funds to achieve the objectives of this solicitation and whether the application has additional funding from other sources. Eligible projects must have at least $500,000 from other sources and document the source(s) of these funds (certification, letter of intent, etc.). Applicants without these funds or the documentation that certifies these funds will be ineligible to receive any points in this category.

Disposition of Applications

1. Approval, Disapproval, or Deferral

On the basis of the review of the application, the Assistant Secretary will either (a) approve the application as a whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. Notification of Disposition

The Assistant Secretary for Planning and Evaluation will notify the applicants of the disposition of their applications. If approved, a signed notification of the award will be sent to the business office named in the ASPE checklist.

Components of a Complete Application

A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424);
2. Budget Information—Non-construction Programs (Standard Form 424A);
3. Assurances—Non-construction Programs (Standard Form 424B);
4. Table of Contents;
5. Budget Justification for Section B Budget Categories;
6. Proof of Non-profit Status, if appropriate;
7. Copy of the applicant's Approved Indirect Cost Rate Agreement, if necessary;
8. Project Narrative Statement;
9. Any appendices or attachments;
10. Certification Regarding Drug-Free Workplace;
11. Certification Regarding Debarment, Suspension, or other Responsibility Matters;
12. Certification and, if necessary, Disclosure Regarding Lobbying;
13. Supplement to Section II—Key Personnel;
14. Application for Federal Assistance Checklist.

Dated: May 20, 1997.

David F. Garrison,

Principal Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 97–13771 Filed 5–23–97; 8:45 am]

BILLING CODE 4151–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 794]

Immunization Registry Targeted Research Projects; Notice of Availability of Funds for Fiscal Year 1997

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1997 funds for cooperative agreement

research projects to identify solutions to problems which currently impair progress in the development and operation of immunization registries.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized under sections 317 (42 U.S.C. 247b) and 311 (42 U.S.C. 243) of the Public Health Service Act as amended, and the National Childhood Vaccine Injury Act (42 U.S.C. 300aa–1, *et seq.*).

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, child care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants include nonprofit organizations. Thus, State and local health departments, other State and local government agencies, universities, colleges, research institutions, hospitals, other public and private non-profit organizations, including small, minority and/or women-owned non-profit businesses are eligible to apply.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, loan, or any other form.

Applications will be considered for funding to conduct a study to address a single research question. The research question chosen should be clearly indicated in the 1-page response to the Program Requirements which is to appear as the first page of text in the application.

Availability of Funds

Approximately $1,000,000 is available in FY 1997 to fund up to ten cooperative agreements. It is expected that the average award will be $100,000 per year (including direct and indirect costs), ranging from $50,000 to $150,000, with awards being made on or before September 30, 1997. The awards will be made for 12-month budget periods within a project period of up to 2 years. Final funding amounts may differ from the amounts above and are subject to change based on the availability of funds.

Cooperative agreement applications which exceed the $150,000 (including direct and indirect costs) per year will be returned to the applicant as non-responsive.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Allowable Uses

Funds should be targeted for implementation, management, and evaluation of the project. Funds can support personnel and the purchase of modest amounts of hardware and software for data collection, analysis, and project management and evaluation purposes.

Prohibited Uses

Cooperative agreement funds through this project cannot be used for (1) Construction, (2) renovation, (3) the purchase or lease of passenger vehicles or vans, or (4) supplanting any current applicant expenditures.

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 HHS Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. This new law, Section 503 of Public Law 104–208, provides as follows:

Section 503(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Public Law 104–208 (September 30, 1996).

Background

Immunization registries, particularly community-based immunization registries (in which both public and private immunization providers participate) are vital to the efforts of the National Immunization Program (NIP) to achieve and maintain high immunization levels.

Key defining characteristics of a ''fully developed'' immunization registry at this point in time include: (1) A mechanism for including all births in the target area; (2) system functionality to support parental or guardian recall of children whose immunizations are past due; (3) ability to help prevent ''missed opportunities'' by automatically evaluating immunization status at every visit; and, (4) ability to assess immunization coverage at levels of individual providers, clinics, and geographic localities.

Immunization registries are now being implemented in all States and many localities. This represents a substantial public health investment. There is reason to believe that registries will achieve their potential to help in meeting national immunization goals. However, the development and operation of registries is complicated by the absence of essential information about them including specific, systematically collected information on their cost, the best methods for developing and maintaining them, and optimal system architectures. Accordingly, NIP will support investigation of the research questions

posed in this program announcement to begin supplying this key information.

Purpose

The purposes of this program are to (1) Increase collective knowledge about the dimensions of these problems, (2) yield bona fide information upon which solutions to these problems can be based, and (3) identify problematic aspects which point to the need for further research to yield additional workable solutions.

Programmatic Priorities

Select the focus of the proposed research project from among the following specific research questions (proposed research *must* be in one of the following):

1. What are the most efficient methods for assuring each child has a unique identification in an immunization registry (i.e., un-duplicating records)?
2. What are the direct and indirect costs of maintaining a fully developed community immunization registry?
3. What are the most effective ways to both secure and maintain the active participation of private providers in an immunization registry?
4. How effective and feasible is it to adapt existing billing and/or patient management systems to obtain accurate and complete immunization information for entry into a registry?

To assist in making this selection, please refer to ''Guidelines to Help Determine Effective Answers to Immunization Registry Research Questions'' (included in the application kit), for thoughts on some of the possible dimensions of these research questions.

Program Requirements

The following are application requirements. Please respond with a clear but succinct description and supportive references regarding how each of the statements apply in the case of your application:

1. The applying institution, organization, or agency has a track record of successful health economics research, health services research, or health information systems research.
2. The applying institution, organization, or agency employs or can engage investigators in the fields of economics, health services research, or information systems research who have direct experience at establishing, working with, and/or researching immunization programs or related topics, and with a corresponding record of substantial publication in the peer-reviewed scientific literature.
3. The applying institution, organization, or agency is designating one such experienced and published investigator as this project's principal investigator.
4. The principal investigator on this project has access to an immunization registry to the extent, and for the time, necessary to carry out this project.

Provide a succinct but informative response to each application requirement. Your response must not exceed 1 page. As evidence of meeting the requirements, you may either present independent attachments or make reference to appropriate text in, or attachments to, the body of your application. Your response may follow your Table of Contents, but must appear as the first page of the text of your application and be titled, ''Program Requirements.'' An affirmative response to Requirements 1–4 is required to qualify for further review.

Cooperative Activities

In conducting activities of this program, the recipient shall be responsible for the activities under A. below and CDC shall be responsible for conducting activities under B. below.

A. Recipient Activities

1. Implement the proposed study design developed to answer the specific research question which is the selected focus of this research project.
2. Implement an evaluation plan designed to determine the extent to which the chosen research question is answered.
3. Specify remaining or newly identified aspects of the research question.
4. Completely document the process involved in answering each aspect of the research question.
5. Publish the results of the research in a peer-reviewed health sciences or medical journal.

B. CDC Activities

1. Provide epidemiologic, programmatic, and educational consultation and technical assistance in planning, operating, improving, and evaluating the research project.
2. Provide ongoing technical assistance to principal investigators to ensure that they are able to avoid the retesting of flawed or failed techniques, systems, or approaches from prior efforts of various U.S. immunization programs which are known to NIP/CDC, but which may not be common knowledge.
3. Provide technical assistance and oversight to ensure that a rigorous scientific approach is taken in this project.
4. Cooperate in the preparation and publication of study results.

Application Contents

Applicants must use the following format for the narrative portion of their applications. Single spacing is optional, but an applicant must observe the specified page limitations and use no less than a 12-point font. Applicants should include a Table of Contents (not to exceed 1 page) to provide a guide for locating key topics. Applicants should also provide an abstract of the proposed program (not to exceed 1 page) that summarizes the research question to be addressed, the priority activities to be undertaken to successfully answer the research question, the principal investigator's educational and professional backgrounds and research experience, and the registry to be used for the purposes of this research.

When developing the application, applicants should refer to the relevant program requirements and guidance to address A.-F. below, which correspond to review and evaluation criteria in the next section.

A. Rationale for the Research Question Chosen To Be Addressed (Not to Exceed 1 Page)

Describe the research question chosen to be addressed and the rationale for this selection. Included in this should be an explanation of why this question is a priority for the investigator(s) and what types of interest, experience, or expertise the investigator(s) bring to the particular problem inherent in the chosen research question, and the anticipated value to immunization registry development or operations that a workable solution is likely to mean.

B. Objectives of the Research (Not to Exceed 1 Page)

Itemize the objectives and time lines of the research in relation to the chosen research question. If a second year is necessary to answer the chosen research question, itemize the objectives and time lines that will take the project to a successful conclusion.

C. Design of the Research (Not to Exceed 3 Pages)

Describe the proposed methodology of the research, how it is expected that various activities will result in answering the chosen research question, and how the design will ensure generalizability of the findings. This description should include, as appropriate, (a) the proposed plan for the inclusion of both sexes and racial

and ethnic minority populations for appropriate representation; (b) the proposed justification when such representation is limited or absent; (c) a statement as to whether the design of the study is adequate to measure differences when warranted; and (d) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognitions of mutual benefits.

D. Background and Experience of the Principal Investigator and the Applying Institution, Organization, or Agency (Not to Exceed 2 Pages)

Describe the educational and professional background of the principal investigator, and document the relevant experience of the principal investigator and qualifications of the applying institution, organization, or agency for carrying out health economics, health services, or information systems research.

E. Immunization Registry To Be Used for the Research (Not to Exceed 2 Pages)

Trace the history of the registry, describe the hardware, software, capacity, and access mechanisms for the registry, describe the owner(s) of the registry, and describe the principal investigator's ability to alter or manipulate it for the purposes of carrying out this research project. Describe the commitment of the registry owner(s) (if other than the applicant), which will be a public health agency in most cases, for collaboration on this project. If applicable, attach documentation (e.g., a letter of support, a preliminary memorandum-of-agreement, a contractual proposal) from the registry owner(s) providing collaboration details, including the terms of access to the registry, and any specified limits to collaboration for the purposes of this project.

F. Budget and Budget Justification (Not to Exceed 4 Pages)

Provide a detailed budget with justification describing resources needed to address all aspect of the proposed research plan. The budget should be consistent with the intended use of these cooperative agreement funds and with the objectives of this project. If the project is anticipated to extend beyond a 1-year project period, include an estimated itemization and level of budgetary needs for the second budget period.

Evaluation Criteria

Upon receipt, applications will be screened by CDC staff for completeness and responsiveness as outlined under the previous heading, ''Program Requirements'' (A.–F.). Incomplete applications and applications which are not responsive will be returned to the applicant without further consideration.

Applications accepted for full review will be evaluated according to the following criteria:

A. Rationale for the Research Question Chosen To Be Addressed

The extent to which the rationale for the chosen research question (1) Is based on the interest, experience, and/or expertise of the investigator(s) with immunization registries, and (2) clearly communicates the anticipated value to immunization registry development or operations that a workable effective solution is likely to mean. (10 Points)

B. Objectives of the Research

The extent to which the objectives of the chosen research question and are numerically measurable, specific, realistic, and time-phased, and that project time lines are reasonable; if a second year is necessary to answer the chosen research question, the extent to which those objectives and time lines meet these same criteria. (15 Points)

C. Design of the Research

The extent to which the proposed methodology of the research is scientifically sound, realistic, appears likely to answer the chosen research question, and will produce generalizable findings; and, if appropriate, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research as specified in the Application Contents section. (35 Points)

D. Background and Experience of the Principal Investigator and of the Applying Institution, Organization, or Agency

The extent to which the educational and professional background of the principal investigator, and relevant experience and expertise of the principal investigator and qualifications of the applying institution, organization, or agency, give confidence that the chosen research question will be answered. (20 Points)

E. Immunization Registry To Be Used for the Research

The extent to which (1) The registry used in carrying out this research project is sufficiently typical of registries around the country so that a solution to the research question will have the broadest possible application, (2) the principal investigator has sufficient access and ability to alter or manipulate it for the purposes of carrying out this research project, and (3) if applicable, the attached evidence of collaboration specifies the commitment of the registry owner(s) and provides collaboration details, including the terms of access to the registry and any specified limits to collaboration for the purposes of this project. (20 Points)

F. Budget and Budget Justification

The extent to which the budget is reasonable, consistent with the intended use of these cooperative agreement funds, and consistent with the objectives of this research project; and if a 2-year project period is requested, the extent to which the estimated needs for a second budget period are appropriately reflected. (Not scored)

Funding Priorities

To the extent that there are a sufficient number of high-ranking applications, NIP/CDC plans to make awards that will address each of the four research questions.

Technical Reporting Requirements

Semi-annual progress reports in a CDC-approved format are required of all cooperative agreement recipients. Time lines for the semi-annual reports will be established at the time of award, but are typically due 30 days after the end of the month which ends the semi-annual period. The narrative progress reports must include the following for each goal or activity involved in the study: (1) A comparison of actual accomplishments to the objectives established for the period; (2) the reasons for slippage if established goals were not met; and (3) other pertinent information essential to evaluating progress; and (4) data pertaining to various project activities.

The annual financial status report and performance reports are required no later than 90 days after the end of the budget period. Submit the original and two copies of the reports to the Grants Management Branch, CDC.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact

(SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. The application kit includes a current list of SPOCs. If the SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305, no later than 60 days after the application due date. Please include the Program Announcement Number and Program Title on the letter.

Public Health System Reporting Requirement

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based non-governmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project by the receipt date of the Federal application. The applicant determines the appropriate State and/or local health agency. The following information must be provided:

A. A copy of the face page of the application (SF 424).

B. A summary of the project that should be titled ''Public Health System Impact Statement'' (PHSIS), not to exceed one page, and include the following:

1. A description of the population to be served;

2. A summary of the services to be provided; and

3. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.268.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Women and Minority Inclusion Policy

It is the policy of CDC to ensure that women and racial and ethnic groups will be included in CDC-supported research projects involving human subjects, whenever feasible and appropriate.

Racial and ethnic groups are defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black, and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where a clear and compelling rationale exists that inclusion is inappropriate or not feasible, this situation must be explained as part of the application.

In conducting the review of applications for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of scientific assessment and assigned score. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, Friday, September 15, 1995, pages 47947–47951.

Application Submission and Deadline

A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Specialist (whose address is reflected in section B., ''Applications''). It should be postmarked no later than one month prior to the planned submission deadline (e.g., June 29 for a July 29, 1997 submission). The letter should identify the announcement number, and the name of the applicant institution. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently and thereby potentially benefit all applicants.

B. Application

The application should be carefully completed, following the directions provided in this program announcement. The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, Georgia 30305, on or before July 29, 1997.

1. Deadline

Applications will be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the review process. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 794. You will receive a complete program description, information on application procedures and application forms.

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, Georgia 30305, telephone (404) 842–6796; Internet address: lgt1@cdc.gov

Programmatic technical assistance may be obtained from Robert Linkins, Data Management Division, National Immunization Program, Centers for Disease Control and Prevention (CDC), Building 12, Corporate Square Boulevard, Mailstop E–62, Atlanta, Georgia 30333, telephone (404) 639–8728; Internet address: RXL3@cdc.gov

Please refer to Announcement Number 794 when requesting information and submitting an application.

This and other CDC announcements are also available through the CDC homepage on the Internet. The address for the CDC homepage is http://www.cdc.gov.

CDC will not send application kits by facsimile or express mail.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone: 202–512–1800.

Dated: May 20, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–13744 Filed 5–23–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreement for Research Projects for Persons With Disabilities and Prevention of Secondary Conditions, Program Announcement 731, Part 2: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Cooperative Agreement for Research Projects for Persons with Disabilities and Prevention of Secondary Conditions, Program Announcement 731, Part 2.

Time and Date: 8:30 a.m.–2:00 p.m., June 13, 1997

Place: Koger Office Park, Vanderbilt Building, Room 1004–A, 2939 Flowers Road, South, Atlanta, Georgia 30341.

Status: Closed.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement 731, Part 2.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Contact Person For More Information: James S. Belloni, Associate Director, State and Community Activities, National Center for Injury Prevention and Control, CDC, M/S K02, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 770/488–4538.

Dated: May 14, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–13747 Filed 5–23–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for HIV, STD, and TB Prevention (NCHSTP) of the Centers for Disease Control and Prevention (CDC); Announces the Following Meeting

Name: Consultation on Guidelines for HIV Partner Notification Conducted in Disease Control Efforts by Public Health Programs in the United States.

Times and Dates: 8:30 a.m.–5 p.m., June 17, 1997, 8:30 a.m.–12 p.m., June 18, 1997.

Place: Wyndham Gardens Hotel, 125 10th Street, NE (Midtown), Atlanta, Georgia, 30309, telephone 404/873–4800, fax 404/870–1530.

Status: Open to the public for participation, comment, and observation, limited only by the space available. The meeting room accommodates approximately 25 people.

Purpose: To invite comment from representatives of public health agencies and the public on revising the existing HIV partner notification guidelines. Currently CDC requires all health department recipients of HIV prevention funding to ''establish standards and implement procedures for partner notification consistent with State/local needs, priorities, and resource availability.''

Matters to be Discussed: Agenda items will focus on discussion of HIV partner notification guidelines that will accompany the announcement for FY 98 HIV Prevention Cooperative Agreements. Discussion will also include directions of supplemental HIV partner notification guidelines for the purpose of disease control in the United States concerning HIV and STD.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Jill Leslie, Division of HIV/AIDS Prevention, NCHSTP, CDC, M/S E40, 1600 Clifton Road, NE, Atlanta, Georgia 30303, telephone 404/639–2918.

Dated: May 19, 1997.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–13746 Filed 5–23–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97M–0203]

Bard Vascular Systems Division, C. R. Bard, Inc.; Premarket Approval of Bard® Albumin Coated DeBakey® Vasculour®-II Vascular Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by C. R. Bard, Inc., Billerica, MA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of Bard® Albumin Coated DeBakey® Vasculour®-II Vascular Prosthesis. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter on October 21, 1994, of the approval of the application.

DATES: Petitions for administrative review by June 26, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review, to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Dorothy B. Abel, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8262.

SUPPLEMENTARY INFORMATION: On January 14, 1993, C. R. Bard, Inc., Billerica, MA 01821, submitted to CDRH an application for premarket approval of Bard® Albumin Coated DeBakey® Vasculour®-II Vascular Prosthesis. The device is a vascular graft prosthesis and is indicated for replacement or bypass procedures in aneurysmal and occlusive diseases of the abdominal arteries.

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel.

On October 21, 1994, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 26, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 18, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–13824 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. June 26 and 27, 1997, 9 a.m., National Institutes of Health, Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD. Parking in the Clinical Center visitor area is reserved for Clinical Center patients and their visitors. If you must drive, please use an outlying lot such as Lot 41B. Free shuttle bus service is provided from Lot 41B to the Clinical Center every 8 minutes during rush hour and every 15 minutes at other times.

Type of meeting and contact person. Open public hearing, June 26, 1997, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5:30 p.m.; closed committee deliberations, June 27, 1997, 9 a.m. to 12 m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), 419–259–6211, or Danyiel D'Antonio (HFD–21), 301–443–5455, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Cardiovascular and Renal Drugs Advisory Committee, code 12533. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 12, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On June 26, 1997, the committee will discuss new drug application (NDA) 19–922, Corlopam™ (fenoldopam mesylate, Neurex), for the short-term treatment of hypertension when oral therapy is not feasible or possible and for use in hypertensive crisis; NDA 20–164, Lovenox® Injection (enoxaparin sodium, Rhone-Poulenc Rorer), to be indicated for the treatment of unstable angina and non-Q-wave myocardial infarction, concurrently administered with aspirin.

Closed committee deliberations. On June 27, 1997, the committee will review trade secret and/or confidential commercial information relevant to pending investigational new drug applications and/or NDA's. This portion

of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: May 19, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–13821 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93S–0220]

Discontinuation of an Electronic Docket for Medical Device/Radiological Health Policy Statements and Operating Procedures Guide; Establishment of World Wide Web Site

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is discontinuing an electronic docket for policy speeches, policy statements, and standard operating procedure guides pertaining to product evaluation and regulatory enforcement for its medical device and radiological health programs. In its place, the agency has established a World Wide Web (WWW) site. The electronic docket, a computer bulletin board service which has been operating since 1993, served both as a repository for critical policy documents generated by the Center for Devices and Radiological Health (CDRH) and as a public display mechanism for access by representatives of the industry and other interested persons. That service ended October 1, 1996, and its contents transferred to a CDRH web site

on the WWW. FDA believes that the transfer will allow CDRH to expand both the amount of information available and the number of users that can access the information.

ADDRESSES: Submit written comments on the electronic docket to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John F. Stigi, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597 ext. 124, E-Mail: DSMO@FDAR.CDRH.FDA.GOV.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 27, 1993 (58 FR 40150), FDA announced, among other things, the establishment of a public docket for policy speeches, policy statements, and standard operating procedure guides pertaining to product evaluation and regulatory enforcement for its medical device and radiological health programs. This docket was intended to operate on a 1-year trial basis and serve as a repository for critical policy documents generated by the Center for Devices and Radiological Health (CDRH) and as a public display mechanism for access by representatives of the industry and other interested persons. The public docket contained ''hard copies'' of documents and was maintained through FDA's Dockets Management Branch. This action was intended to serve as an overall communications initiative to endure uniform and timely access to important information. The trial period for this public began July 27, 1993, and was intended to end July 27, 1994.

To further increase industry access to major CDRH documents in a real time and dynamic fashion, a nationwide electronic docket was established concurrently with the public (''hard copy'') docket and contained the same information as the public docket. The electronic docket allowed medical device companies, clinical researchers, manufacturers of radiation-emitting products, and others to electronically access the same documents available in the public docket. The documents could be read directly on the requestor's computer screen, printed at the requestor's terminal, downloaded to the requestor's personal computer, or be requested by mail. The system was menu-driven and included automated searching capabilities.

In the **Federal Register** of February 7, 1995 (60 FR 7204), FDA issued a notice that extended, for an indefinite period of time, this electronic docket. The agency also decided to stop maintaining a public ''hard copy'' docket. During its trial period, the success of the electronic docket as an information dissemination source was clearly demonstrated by the high volume of electronic accessions and transfers. However, demand soon outstripped the ability of the computer bulletin board service, which restricts the numbers of users that can simultaneously access the system. In order to increase the level of service to the public, the computer bulletin board service has been supplanted by the WWW. The technology offered by the WWW has enabled CDRH to logarithmically expand both the amount of information available and the number of users that can access the information. The CDRH web site Home Page is located at TTP://WWW.FDA.GOV/CDRH and is linked to FDA's Home Page. Through FDA's Home Page, the web site Home Pages of many other FDA components, such as Import Operations and Field Activities, can also be accessed.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the discontinuation of the electronic docket. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–13819 Filed 5–23–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for a Cooperative Research and Development Agreement (CRADA) Partner To Develop a Diagnostic System for Identifying Infectious Agents

SUMMARY: The Department of Health and Human Services (DHHS), National Institute of Health Clinical Center (NIHCC) is seeking a Cooperative Research and Development Agreement (CRADA) partner to further develop a collaboration with NIHCC, a diagnostic system for identifying infectious agents.

Investigators at the National Institute of Health, Clinical Center (NIHCC) and University of Maryland have been developing a reliable and easy to use detection system for identifying various infectious agents. The detection system can identify, with high specificity, infectious agents by type and subtype (e.g. HIV, HCV and HIV–1 type A, HIV–2 type B respectively. This technology is based upon enzyme recognition and site-directed cleavage of a DNA oligo probe, whose sequence allows for hybridization with an RNA or DNA target strand. Further development is needed to improve sensitivity for diagnostic use via signal amplification methodologies.

ADDRESSES: For more information, please contact John Gill (Tel# 301–496–0477, Fax # 301–402–2117), Office of Technology Development, National Cancer Institute, 6120 Executive Plaza South, Ste. 450; Bethesda, MD 20892–7182. For hand carry or overnight delivery please substitute ''Rockville, MD 20852'' for ''Bethesda, MD 20892–7182'' in the above address.

DATES: In view of the important priority of developing the diagnostic systems, interested parties should notify this office in writing no later than July 28, 1997.

SUPPLEMENTARY INFORMATION: A Cooperative Research and Development Agreement of ''CRADA'' means the anticipated joint agreement to be entered into by NIHCC pursuant to the Federal Technology Transfer Act (''FTTA'') of 1986 and amendments (including 104 P.L. 113) to collaborate on the specific research project described below. As provided by the FTTA, the selected CRADA partner is granted an option to elect an exclusive or non-exclusive license to a field of use for subject invention(s) arising under and within the scope the CRADA research plan.

NIHCC Will—

Provide assay information, protocol(s) and/or method(s) for the detection and subtyping of various infectious agents;

Provide intellectual guidance and assistance for improving assay sensitivity by signal amplification;

Provide facilities and biological materials for evaluation and validation of the assay;

Provide information on nuclei acid sequence and expression of the enzyme;

Provide assistance with subcloning, over-expression and purification of the enzyme;

Provide personnel to support and facilitate completion of the studies.

Collaborator Will—

Identify, through appropriate means, gene(s) encoding a thermostable enzyme;

Perform subcloning and over-expression of gene(e) encoding a thermostable enzyme;

Purify to homogeneity adequate quantities of thermostable enzyme(s) to complete the studies;

Conduct assays to measure enzyme activity at various temperatures and substrate concentrations;

Develop a method for improving assay sensitivity by signal amplification using a thermostable enzyme having certain selected for characteristics.

Selection Criteria

Demonstrated ability in protein engineering and molecular biology. Particular expertise in cloning, over-expression and purification of a thermal stable enzyme;

Scientific expertise and demonstrated commitment to the development of diagnostic systems;

Experience in preclinical and clinical diagnostic development;

Experience and ability to produce, package, market and distribute pharmaceutical products;

Willingness to cooperate with NIHCC in the collection, evaluation, publication and maintenance of data from pre-clinical studies and clinical trials regarding the diagnostic system.

Dated: May 15, 1997.

Thomas D. Mays,

Director, Office of Technology Development, National Cancer Institute, National Institutes of Health.

[FR Doc. 97–13831 Filed 5–23–97; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for a Cooperative Research and Development Agreement (CRADA) and Licensing Opportunity for Testosterone Bucyclate

AGENCY: National Institute of Child Health and Human Development, National Institutes of Health, Public Health Service, DHHS; and UNDP/UNFPA/WHO/World Bank Special Programme of Research, Development and Research Training in Human Reproduction (WHO/HRP).

ACTION: Notice.

SUMMARY: The National Institutes of Health and the World Health Organization are seeking (a) partner(s) for the further development, evaluation and commercialization of testosterone bucyclate and pharmaceutical compositions thereof. The invention claimed in the issued U.S. patent referenced below is available for either exclusive or non-exclusive licensing. Licensing by NIH is subject to 35 U.S.C. 207 and 37 CFR part 404.

Long-Acting Androgenic Compounds and Pharmaceutical Compositions Thereof

Inventors: Sydney Archer, Gabriel Bialy, Richard P. Blye, Pierre Crabbe, Egon R. Diczfalusy, Carl Djerassi, Josef Fried and Hyun K. Kim.

Assignees: National Institutes of Health and the World Health Organization.

Issued: August 14, 1990.

Patent Number: 4,948,790.

To expedite the research, development and commercialization of testosterone bucyclate, the National Institutes of Health and the World Health Organization are seeking one or more CRADA and/or license agreements with pharmaceutical or biotechnology companies in accordance with the regulations governing the transfer of Government-developed agents and WHO's public sector objectives, as outlined below. Any proposal to use or develop these drugs will be considered.

SUPPLEMENTARY INFORMATION:

Androgens are principally employed in therapeutic medicine for replacement or supplementation in androgen deficiency states but also find use in hypopituitarism, menstrual disorders, anemia, promotion of anabolism, suppression of lactation and as a palliative measure in recurrent and metastatic carcinoma of the breast. NIH's and WHO's interest is to develop testosterone bucyclate for use in a hormonal method of male contraception and for androgen replacement in other methods of male contraception which usually compromise the endocrine as well as the gametogenic function of the testis. Long-term androgen therapy is complicated by the side effectes and/or poor bioavailability of oral preparations and the need for frequent injections of parenteral products. Two of the most commonly used injectable androgens, testosterone enanthate and testosterone cypionate, must be administered about every two weeks. There is thus a crucial need for longer-acting injectable androgens.

Testosterone bucyclate emanated, in 1980, from a joint NIH-WHO-sponsored steroid synthesis program in which the preparation of selected steroid esters was contracted by WHO and the resulting compounds screened by the Contraceptive Development Branch (CDB) of the National Institute for Child Health and Human Development at its Biological Testing Facility. Chemically, testosterone bucyclate is Testosterone 17β-(*trans*-4*n*-butyl) cyclohexyl carboxylate. This ester of the natural hormone, testosterone, exhibits prolonged activity when administered intramuscularly as an aqueous crystalline suspension in all species studied, including man. The drug was evaluated, including pharmacokinetics and metabolic studies in both rodents and primates, by CDB. WHO supported studies in primates as well as the first clinical studies in hypogonadal and normal men. The patent is jointly held by NIH and WHO. NIH and WHO intend to continue joint development of testosterone bucyclate.

Although each patentee may proceed with granting a non-exclusive license independently, joint licensing is envisaged. Licensing will include use of testosterone bucyclate as a hormonal method of male contraception, use for androgen replacement in other methods of male contraception, which usually compromise the endocrine as well as the gametogenic function of the testis and use as a therapeutic androgen for patients with androgen deficiency syndromes. A ''Notice of Claimed Investigational Exemption For A New Drug'' (IND) was filed with the FDA in October, 1996.

The National Institute of Child Health and Human Development and the World Health Organization seeks partners for the further development and commercialization of testosterone bucyclate.

The role of the National Institute of Child Health and Human Development and the World Health Organization is expected to be as follows:

1. Provide the commercial partner with all biological data on testosterone bucyclate covered by the agreement.

2. Provide samples of the drug and, upon successful completion of ongoing formulation studies, clinical dosage forms.

3. Provide, upon successful completion of ongoing studies, chemical data on testosterone bucyclate, including routes of synthesis, analytical methods employed, purity, stability and formulation.

4. Provide reports of all safety studies of the drug.

5. Continue studies on the pharmacokinetics and biological activity of testosterone bucyclate and formulations thereof.

6. Conduct appropriate studies to optimize formulations of testosterone bucyclate.

7. Participate in meetings with the Food and Drug Administration for establishment of the protocols for Phase I, II and III clinical investigations and provide liaison with the FDA.

The role of the commercial partner is expected to be as follows:

1. Obtain a commercialization license from the NIH and the WHO.

2. Assume responsibility for regulatory affairs including amending the IND as necessary.

3. Assume responsibility for preparation and formulation of the drug for all pre-Phase III safety studies and clinical trials.

4. Undertake such additional safety studies as may be required for Phase III clinical trials and for NDA submission.

5. Undertake an orderly sequence of clinical investigations of testosterone bucyclate as a hormonal methods of male contraception and for androgen replacement in other methods of male contraception.

6. Assume responsibility for preparation and filing of the NDA.

7. Assume responsibility for commercial manufacture and distribution of the final products.

8. Ensure availability of the final products to the public sector of developing countries in sufficient quantities, at a preferential price, in accordance with WHO's public sector objectives.

Selection criteria for choosing commercial partners will furthermore include, but will not be limited to the following:

1. The proposal must contain a clear statement of capabilities and experience with respect to the tasks to be undertaken. This would include experience in drug development, regulatory affairs and marketing.

2. The proposal must contain a clear and concise outline of the work to be undertaken, a schedule of significant events, an outline of objectives to be accomplished with individual and overall times frames, and details of experimental procedures and techniques to be employed.

3. The proposal must contain the level of financial support which will be supplied for the development of testosterone bucyclate.

4. Agreement to be bound by DHHS and WHO rules and regulations regarding patent rights, the ethical treatment of animals, the involvement of human subjects in clinical investigations and the conduct of randomized clinical trials.

5. Agreement with provisions for equitable distribution of patent rights to any inventions developed under the CRADA and license agreements.

DATES: In view of the high priority for developing and commercializing testosterone bucyclate, all proposals must be received no later than June 26, 1997 for priority consideration.

ADDRESSES: CRADA proposals and questions should be addressed to Dr. Diana Blithe, Contraceptive Development Branch, Center for Population Research, National Institutes of Child Health and Human Development, Room 8B 13, 6100 Executive Boulevard, Rockville, Maryland 20892 (Telephone: 301/496–1661); with a copy to Director, UNDP/UNFPA/WHO/World Bank Special Programme of Research, Development and Research Training in Human Reproduction, World Health Organization, 20, Avenue Appia, CH–1211 Geneva 27, Switzerland. Responders interested in submitting a CRADA proposal should simultaneously submit a license application concerning the above-mentioned patent rights to NIH and WHO for commercialization of products arising from the CRADA.

Requests for copies of the U.S. patent, license application forms, or questions about the licensing opportunity should be addressed to Ms. Carol Lavrich, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (Telephone: 301/496–7735 ext. 287), with a copy to Office of the Legal Counsel, World Health Organization, 20 Avenue Appia, CH–1211 Geneva 27, Switzerland (Telephone: 00–41–22 7912685). Completed license applications should be submitted to the same addresses.

Pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement with the appropriate agency.

Dated: May 16, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–13832 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Vaccine for Malaria

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a limited field of use exclusive world-wide license to practice the invention embodied in U.S. Patent Application Serial Nos. 08/119,677 (field 09/10/93), 08/487,826 (field 06/07/95), and 08/568,459 (filed 12/07/95), entitled ''Binding Domains from Plasmodium Vivax and Plasmodium Falciparum Erythrocyte Binding Proteins,'' and related foreign patent applications, to EntreMed, Inc. of Rockville, MD. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. It is anticipated that this license may be limited to vaccine for Malaria.

This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

SUPPLEMENTARY INFORMATION: The patent applications identify function domains of Plasmodium proteins which can be used for the prevention or treatment of malaria. The parasite invades erythrocytes by attaching to surface receptors. The erthyrocyte binding domains of the sialic acid binding protectin (SABP) of P. falciparum and the Duffy antigen binding protein (DABP) can be used in vaccines to induce immune responses which block erythrocyte binding and invasion by P. falciparum and P. vivax meroszoites. USSN 089/487,826 further includes genes and nucleotide sequences and predicted polypeptide sequences of the P. falciparum DBL (Duffy-binding like) gene family which codes for antigenically variant binding domains.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Gloria H. Richmond, Patent Advisor, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: 301/496–7057; Facsimile: 301/402–0200; E-mail: Gloria Richmond@NIH.GOV. A signed Confidential Disclosure Agreement will be required to receive a copy of the patent applications.

Applications for a non-exclusive or exclusive license filed in response to

this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NIH on or before July 28, 1997 will be considered.

Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 15, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–13830 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Limited Exclusive License: Radioimmunotherapy Utilizing Bismuth 213 and Monoclonal Antibodies Having Binding Specificity to Tag–72 and Human Carcinomas

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the inventions embodied in U.S. Patent Applications SN 08/299,999 and corresponding foreign patent applications entitled, ''Production Of A Single-Gene Encoded Immunoglobulin''; ''Second Generation Monoclonal Antibodies Having Binding Specificity To Tag–72 And Human Carcinomas'' (07/073,685, 07/547,336, now U.S. Patent 5,512,443, issued 4/30/96)'', and U.S. Patent Application PHS Ref. No. D–001–96/0 ''Humanized Monoclonal Antibodies Specific to TAG–72; Methods For Their Manufacture and Usage in The Treatment Or Diagnosis of Cancer'' to Bio-Nucleonics, Inc. of Miami, Florida. The patent rights in these inventions have been assigned to the United States of America, except for PHS Ref. No. D–001–96/0 in which the patent rights in this invention has been assigned to the United States of America and Dow Chemical, Inc.

The prospective exclusive license field of use may be limited to: The use of CC49 monoclonal antibodies only in conjunction with Bismuth–213 for human radioimmunotherapy (RIT) and the use of CC49 monoclonal antibodies only in conjunction with Bismuth–213 as research reagents.

DATES: Only written comments and/or applications for a license which are received by NIH on or before July 28, 1997 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: Joseph G. Contrera, M.S., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: (301) 496–7056 ext. 244; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a monoclonal anti-tumor antibody, designated CC49 which is a second generation monoclonal antibody of the B72.3 antibody. CC49 recognizes the tumor associated glycoprotein, TAG–72. The TAG–72 antigen is expressed on at least 75% of colorectal cancers; 85% of ovarian, endometrial, gastric, and pancreatic cancers; 60% of prostate cancers; and approximately 50% of breast and lung cancers. Of particular importance is the fact that B72.3, the first generation monoclonal antibody specific for TAG–72, was the first monoclonal antibody to be approved by the Food and Drug Administration (FDA) for *in-vivo* use.

For working with B72.3, a second generation antibody, designated CC49 was developed which is highly specific for the same TAG–72 antigen. The CC49 monoclonal antibody specific for TAG–72 glycoprotein is currently in preclinical studies, and shows superior results over B72.3. The CC49 monoclonal antibody and the gene which encodes for it, is the subject technology of this exclusive license application.

Applications for a license in the field of use filed in response of this notice will be treated as objections to the grant of the contemplated licenses. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 19, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–13833 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Vision Research Program Planning Subcommittee of the National Advisory Eye Council on June 11, 1997, Executive Plaza South, 6120 Executive Boulevard, Suite 350, Bethesda, Maryland.

The meeting will be held from 3:00 p.m. to 5:00 p.m. and will be open to the public. The purpose of the meeting is to update the subcommittee on the progress of the program planning panels in preparing their reports and to discuss the next steps in developing the Council's strategic plan. Attendance by the public will be limited to space available.

Ms. Lois DeNinno, Council Assistant, National Eye Institute, (301) 496–9110, will provide a summary of the meeting, roster of committee members, and substantive program information upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. DeNinno in advance.

Dated: May 21, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–13836 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart,

Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Mitochondrial Defects in Development of Cardiac Disease.
Date: June 17–18, 1997.
Time: 7:30 p.m.
Place: Gaithersburg Marriott Washington Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.
Contact Person: Jon Ranhand, Ph.D., Two Rockledge Center, Room 7188, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0280.
Purpose/Agenda: To review and evaluate grant applicants.

Name of SEP: Human Anti-HIV Monoclonal Antibodies in Immunotherapy of HIV.
Date: June 19–20, 1997.
Time: 7:00 p.m.
Place: Bethesda Mariott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.
Contact Person: Diane M. Reid, M.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: POSH: Long-Term Mortality and Morbidity.
Date: June 24, 1997.
Time: 9:00 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.
Contact Person: C. James Scheirer, Ph.D., Two Rockledge Center, Room 7220, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0266.
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Lung Health Study: Long-Term Followup.
Date: June 24, 1997.
Time: 1:30 p.m.
Place: Bethesday Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.
Contact Person: Anne P. Clark, Ph.D., Two Rockledge Center, Room 7186, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0280.
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Demonstration and Education Research Applications (R18s) and Child and Adolescent Trial for Cardiovascular Health (UO1s).
Date: July 22–23, 1997.
Time: 9:00 a.m.
Place: Washington National Airport Hilton, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.
Contact Person: Louise Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.
Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839 Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 20, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–13829 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Asthma, Allergic & Immunologic Diseases Cooperative Research Centers.
Date: June 23–26, 1997.
Time: 7:30 p.m.
Place: Georgetown Holiday Inn, Walker Room, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20007, (202) 338–4600.
Contact Person: Dr. Allen Stoolmiller, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C05, Bethesda, MD 20892, (301) 496–7966.
Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 20, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–13827 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Nursing Research; Notice of Closed Meeting

Purusant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Nursing Research Initial Review Group.
Date: June 26–27, 1997.
Time: 8:30 a.m. until adjournment.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Contact Person: Mary Stephens-Frazier, Ph.D., Building 45, Room 3AN–18, 45 Center Drive, Bethesda, MD 20892, (301) 594–5971.
Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health)

Dated: May 20, 1997.

LeVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–13828 Filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Disease; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: The Developing Kidney in Health and Disease.
Date: June 29–July 1, 1997.
Time: 7:30 p.m.
Place: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, New York 10461.
Contact Person: Sharee Pepper, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building,

Room 6as–25E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–7798.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 21, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–13834 Filed 5–23–97; 3:09 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: Exploratory CRF in Children.

Date: June 12–13, 1997.

Time: 7:30 p.m.

Place: Doubletree Guest Suites, 1300 Concourse Drive, Linthicum, Maryland 21090.

Contact Person: William, E. Elzinga, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6as–37A, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8895.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussion could reveal confidential trade secrets of commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 21, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–13835 filed 5–23–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in May.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. This discussion could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. This discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Dates: May 22, 1997.

Place: Hotel Sofitel, 1914 Connecticut Avenue, NW, Salon South, Washington, DC 20009.

Closed: May 22, 1997 8:30 a.m.—5:00 p.m.

Contact: Constance M. Burtoff, 17–89, Parklawn Building, Telephone: 301–443–2437 and FAX: 301–443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 20, 1997.

Jeri Lipov,

Committee Management Officer SAMHSA.

[FR Doc. 97–13758 Filed 5–21–97; 11:55 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in June 1997.

A portion of the meeting will be open and include discussion of the future directions for the Center's Knowledge Development and Applications Agenda for FY 1998 and discussion of the Center's policy issues and current administrative, legislative, and program developments.

The meeting will also include the review, discussion, and evaluation of individual contract proposals and discussion of information about the Center's procurement plans. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

A summary of the meeting and roster of council members may be obtained from: Mrs. Julie A. Stevens, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5050.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: June 4, 1997–1:30 p.m.–4:30 p.m. June 5, 1997–8:30 a.m.–5:00 p.m.

Place: Holiday Inn/Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: June 4, 1997–1:30 p.m.–4:30 p.m., June 5, 1997–9:00 a.m.–5:00 p.m.,

Closed: June 5, 1997–8:30 a.m.–9:00 a.m.

Contact: Marjorie M. Cashion, Executive Secretary, Telephone: (301) 443–5050, and FAX: (301) 480–6077.

Dated: May 20, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–13759 Filed 5–23–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in June.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: June 2–4, 1997.

Place: Sheraton City Center Hotel, City Center II Room, 1143 New Hampshire Avenue, NW, Washington, DC 20037.

Closed: June 2–3, 1997—9:00 a.m.–5:00 p.m. June 4, 1997—9:00 a.m.—adjournment

Panel: Center for Mental Health Services and Center for Substance Abuse Treatment Cooperative Agreements on Criminal Justice Diversion Interventions for Individuals with Co-occurring Mental Illness and Substance Abuse Disorders.

Contact: Stan Kusnetz, M.S. Ed., Room 17–89, Parklawn Building, Telephone: 301–443–3042 and FAX: 301–443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 20, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–13757 Filed 5–23–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4238–N–02]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: The due date for comments is: June 3, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451, Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed Notice of Fund Availability (NOFA) for the Homeownership Zone Program. HUD seeks to implement this by May 30, 1997.

Under the Homeownership Zone Program, HUD will provide approximately $20 million to promote large scale development of distressed areas. This program promotes homeownership as a foundation for physical, social and economic revitalization of impoverished neighborhoods. The eligible expenses for program funds are land acquisition, site preparation, housing construction, housing rehabilitation, direct assistance to homebuyers, homeownership counseling, homebuyer education, relocation project marketing, and project related soft costs as defined under 24 CFR 92.206(d) of (HUD's Home regulations). Also, up to five percent of Homeownership Zone grant funds can be used for administrative costs as defined under 24 92.207 (of HUD's HOME regulations). Eligible applicants are any units of general local government as defined in Title I, Section 102(a)(1) of the Housing and Community Development Act of 1974.

The information collection is essential so that HUD Staff may determine the eligibility, qualifications and capability of applicants to carry our Homeownership Zone activities. HUD will review the information provided by the applicants against the selection criteria contained in the NOFA in order to rate and rank the applications and select the best and most qualified individual applications for funding. The selection criteria are: (1) Quality of Homeownership Zone; (2) Distress; (3) Financial Soundness; (4) Leveraging of Nonfederal Resources; (5) Capacity to Successfully Carry Out the Plan; and (6) Affirmatively Furthering Fair Housing Practices.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

(1) *Title of the information collection proposal:* NOFA: Homeownership Zone Program.

(2) *Summary of the collection of information:* Each applicant for Homeownership Zone funds would be required to submit current information, as listed below:

a. Form S.F. 424—Application for Federal Assistance;

b. Certification—Concerning Use of Federal Funds for Lobbying;

c. An Executive Summary of the proposal;

d. Narratives for each of the selection criteria;

e. A map of the Homeownership Zone.

(3) *Description of the need for the information and its proposed use:* The information collection is essential so that HUD staff may determine the eligibility, qualifications and capability of applicants to carry out Homeownership Zone activities. HUD will review the information provided by the applicants against the selection criteria contained in the NOFA in order to rate and rank the applications and select the best and most qualified individual applications for funding.

(4) *Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:* Eligible

applicants are units of general local government. The estimated number of respondents is 70. The proposed frequency of the response to the collection of information is one-time. The application need only be submitted once.

(5) *Estimate of the total reporting and record keeping burden that will result from the collection of information:*

Reporting Burden:

Number of Respondents: 70.

Total Burden Hours (@100 hours per response): 7000.

Total Estimated Burden Hours: 7000.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 19, 1997.

David S. Cristy,

Director, IRM Policy and Management Division.

[FR Doc. 97–13731 Filed 5–23–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4167–C–02]

Notice of Funding Availability; The Traditional Indian Housing Development Program Fiscal Year 1997; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for fiscal year 1997; Correction.

SUMMARY: On April 24, 1997 (62 FR 20068), the Department published a notice that announced the availability of Fiscal Year (FY) 1997 funding for the development of new Indian Housing (IH) units and provided the applicable criteria, processing requirements and action timetable. The purpose of this document is to correct the table in section *''F. Selection Criteria''*, paragraph 2, by correcting the number of units awarded for the ''Northwest'' jurisdiction to read ''5'' for each parallel category listed in the column entitled, ''Waiting list by program type''.

DATES: The dates for the notice published April 24, 1997 are still applicable.

FOR FURTHER INFORMATION CONTACT: Refer to Appendix 1 of the April 24, 1997 notice for a complete list of the appropriate area ONAP's and telephone numbers.

SUPPLEMENTARY INFORMATION: Accordingly, FR–Doc. 97–10639, a Notice of Funding Availability for the Traditional Indian Housing Development Program Fiscal Year 1997, published in the **Federal Register** on April 24, 1997 at 62 FR 20068, is corrected as follows:

On page 20071, in the table at the bottom of the page, in section *F. Selection Criteria*, in paragraph 2 that begins with *''The number of units awarded * * *''*, in the column under ''Northwest'', ''25'' is corrected to read ''5'', ''20'' is corrected to read ''5'', ''15'' is corrected to read ''5'', and ''10'' is corrected to read ''5''.

Dated: May 19, 1997.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 97–13732 Filed 5–23–97; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. 783010

Applicant: California Department of Transportation, Santa Ana, California.

The applicant requests an amendment of her permit for take (harass by survey, locate and monitor nests) of the southwestern willow flycatcher (*Empidonax traillii extimus*) and for take (locate and monitor nests) of the least Bell's vireo (*Vireo bellii pusillus*) to include the species ranges throughout California in conjunction with population monitoring for the purpose of enhancing their survival.

Permit No. 827496

Applicant: Matthew Gitzendanner, Pullman, Washington.

The applicant requests a permit to remove and reduce to possession specimens of *Lomatium bradshawii* (Bradshaw's desert parsley) on Federal lands in Linn and Lane Counties, Oregon, and Clark County, Washington in conjunction with scientific research for the purpose of enhancing its propagation and survival.

Permit No. 779910

Applicant: William E. Haas, San Diego, California.

The applicant requests an amendment of his permit to take (toe-clip; collect blood) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego County, California in conjunction with genetic research for the purpose of enhancing its survival.

Permit No. 818627

Applicant: Oregon Department of Fish and Wildlife, Corvallis, Oregon.

The applicant requests an amendment of his permit to take (capture, otolith mark, captively rear, sacrifice, and release) the Oregon chub (*Oregonichthys crameri*) at Shady Dell Pond, and East Fork Minnow Creek Pond in Lane County, Oregon in conjunction with ecological research and growth rate studies for the purpose of enhancing its survival.

Permit No. 788074

Applicant: Ellen T. Bauder, San Diego State University, San Diego, California.

The applicant requests an amendment of her permit to take (collect) San Diego fairy shrimp (*Branchinecta sandiegonensis*) in conjunction with ecological research on *Eryngium aristulatum* ssp. *parishii* (San Diego button celery) in San Diego County, California for the purpose of enhancing its survival.

Permit No. 827499

Applicant: Richard E. Farris, Agoura Hills, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys and population monitoring in Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties, California for the purpose of enhancing its survival.

Permit No. 827498

Applicant: Jesus Maldonado, Los Angeles, California.

The applicant requests a permit to take (capture, mark, and release) the Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with surveys and ecological research in San Pedro, California for the purpose of enhancing its survival.

Permit No. 785108

Applicant: Tierra Consultants, Inc., Riverside, California.

The applicant requests an amendment to his permit to take (harass by survey) the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*)

in conjunction with surveys in San Bernardino and Riverside Counties, California for the purpose of enhancing its survival.

Permit No. 827500

Applicant: Sean J. Barry, Dixon, California.

The applicant requests a permit to take (capture and release; collect voucher specimens) the California red-legged frog (*Rana aurora draytonii*) and take (capture and release; collect blood, tissue and voucher specimens) the giant garter snake (*Thamnophis gigas*) in conjunction with surveys, population monitoring, and genetic research in northern California for the purpose of enhancing their survival.

Permit No. 787924

Applicant: Markus Spiegelberg, San Diego, California.

The applicant requests an amendment to his permit to take (locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with population monitoring and removal of brown-headed cowbird (*Molothrus ater*) eggs in Orange, Riverside, and San Diego Counties, California for the purpose of enhancing its survival.

Permit No. 811894

Applicant: Samuel M. McGinnis, Hayward, California.

The applicant requests an amendment of his permit for take (capture, mark, and release) of the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) to include the greater Pacifica area, San Mateo County, California and for take (capture and release; radio-tag) the California red-legged frog (*Rana aurora draytonii*) in the greater Pacifica area and the San Francisco International Airport, San Mateo County, California in conjunction with population studies and ecological research for the purpose of enhancing their survival.

Permit No. 810678

Applicant: Harmsworth Associates, Dove Canyon, California.

The applicant requests an amendment of his permit to take (harass by survey; capture and release; collect and sacrifice voucher specimens) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), San Diego fairy shrimp (*Brachinecta sandiegonensis*), and Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with surveys in vernal pools in San Diego, Orange, Riverside, San Bernardino, Los Angeles, Kern, Fresno, Merced, and Santa Barbara Counties, California for the purpose of enhancing their survival.

Permit No. 802160

Applicant: Bayfront Conservancy Trust, Chula Vista, California.

The applicant requests a permit to take (collect eggs) the light-footed clapper rail (*Rallus longirostris levipes*) in conjunction with a captive breeding program at the Chula Vista Nature Center, San Diego County, California for the purpose of enhancing its survival. Personnel from the Fish and Wildlife Service's Fish and Wildlife Office, Carlsbad, California will collect the eggs.

Permit No. 811615

Applicant: Cynthia Jones, San Diego, California.

The applicant requests an amendment to her permit to take (locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with removal of brown-headed cowbird (*Molothrus ater*) eggs throughout the species range in California for the purpose of enhancing its survival.

Permit No. 828741

Applicant: Johnson Wang, Clayton, California.

The applicant requests a permit to take (capture/release; collect voucher specimens) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with life history studies in Marin County, California for the purpose of enhancing its survival.

Permit No. 758175

Applicant: John and Jane Griffith, San Clemente, California.

The applicants request an amendment of their permit to take (harass by survey) the light-footed clapper rail (*Rallus longirostris levipes*) and the Yuma clapper rail (*Rallus longirostris yumanensis*), and take (harass by survey and nest monitoring) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Imperial County, California and Yuma County, Arizona, and take (harass by survey, locate and monitor nests, capture, band and release) the least Bell's vireo (*Vireo bellii pusillus*) in Imperial County, California in conjunction with surveys and life history studies for the purpose of enhancing their survival.

Permit No. 829201

Applicant: Bernard May, Davis, California.

The applicant requests a permit to take (capture/release, electroshock, collect tissue samples, and sacrifice) the Mojave tui chub (*Gila bicolor mojavensis*) and Owens tui chub (*Gila bicolor snyderi*) in conjunction with genetic research in Inyo, Mono, Madera, and San Bernardino Counties, California for the purpose of enhancing their survival.

Permit No. 829204

Applicant: H. Lee Jones, Lake Isabella, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring in San Diego, Orange, Riverside, Los Angeles, San Bernardino, Kern, Ventura, and Santa Barbara Counties, California for the purpose of enhancing their survival.

Permit No. 829250

Applicant: Hawaii Wildlife Fund, Laie, Hawaii.

The applicant requests a permit to take (capture; flipper-tag; satellite and radio-tag; and release) the hawksbill sea turtle (*Eretmochelys imbricata*) in conjunction with reproductive and ecological research in Hawaii and Maui Counties, Hawaii for the purpose of enhancing its survival.

Permit No. 828708

Applicant: Maria-Paloma Nieto, Nipomo, California.

The applicant requests a permit to take (locate and monitor nests) the California least tern (*Sterna antillarum brownii*) and western snowy plover (*Charadrius alexandrinus nivosus*) in conjunction with population monitoring in Santa Barbara and San Luis Obispo Counties, California for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or before June 26, 1997.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; FAX: 503–231–6243. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are

available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: 503–231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 20, 1997.

Thomas J. Dwyer,

Regional Director, Region 1 Portland, Oregon.

[FR Doc. 97–13745 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–921–07–1320–01; MTM 80697]

Coal Lease Offering

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of coal lease offering by sealed bid MTM 80697—Western Energy Company.

SUMMARY: Notice is hereby given that the coal resources in the lands described below in Rosebud County, Montana, will be offered for competitive lease by sealed bid. This offering is being made as a result of an application filed by Western Energy Company, in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181–287), as amended.

An Environmental Assessment of the proposed coal development and related requirements for consultation, public involvement, and hearing have been completed in accordance with 43 CFR part 3425. Concerns and issues expressed by the public during the public scoping process centered on social, economic, and cultural impacts to the Northern Cheyenne and Crow Tribes, hydrologic impacts to the area, and the need to do an Environmental Impact Statement (EIS) as the appropriate level of environmental documentation for the development of the coal resources. Three alternatives (Preferred, No Action, and Cultural Resource Avoidance) were developed to analyze impacts and to address issues relating to the proposed action. The Preferred Alternative, including special stipulations and mitigation measures, was chosen because it will maximize the beneficial use of the subject coal resource and will mitigate impacts to one historic site and two sites which have high values as traditional cultural properties.

The tract will be leased to the qualified bidder of the highest cash amount, provided that the high bid meets the fair market value of the coal resource. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

COAL OFFERED: The coal resource to be offered consists of all recoverable reserves in the following-described lands located approximately 10 miles west of the town of Colstrip, Montana:

T. 1 N., R. 39 E., P.M.M.
Sec. 2: S½NW¼, N½NE¼SE¼
T. 1 N., R. 40 E., P.M.M.
Sec. 6: Lots 1, 2, 3, 4, S½N½, S½
Sec. 8: E½, N½NW¼
Sec. 14: S½SW¼, SE¼
T. 2 N., R. 40 E., P.M.M
Sec. 32: All.
Containing 2,061 acres.
Rosebud County, Montana.

The Rosebud seam, averaging 22.3 feet in thickness, is the only economically minable coal seam within the tract. The tract contains an estimated 35.6 million tons of recoverable reserves. Coal quality, as received, averages 8,360 BTU/lb., 25.52 percent moisture, 10.03 percent ash, and 0.97 percent sulfur. This coal bed is being mined in adjoining tracts by Western Energy Company.

RENTAL AND ROYALTY: A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of coal mined by underground methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

DATES: Lease Sale—The lease sale will be held at 10 a.m., Wednesday, July 2, 1997, in the Conference Room on the Sixth Floor of the Granite Tower Building, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107.

Bids—Sealed bids must be submitted on or before 9 a.m., Wednesday, July 2, 1997, to the cashier, Bureau of Land Management, Montana State Office, Second Floor, Granite Tower Building, 222 North 32nd Street, Post Office Box 36800, Billings, Montana 59107–6800. The bids should be sent by certified mail, return receipt requested, or be hand-delivered. The cashier will issue a receipt for each hand-delivered bid. Bids received after that time will not be considered.

SUPPLEMENTARY INFORMATION: Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile documents are also available for public inspection at the Montana State Office.

Dated: May 16, 1997.

Francis R. Cherry, Jr.,

Acting State Director.

[FR Doc. 97–13698 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–020–1410–00–P; FF091732]

Environmental Impact Statement: Fairbanks, Alaska

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement on the Northern Intertie Project.

SUMMARY: The BLM is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed 230kV power transmission line between Healy and Fairbanks, Alaska, in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as amended; and the regulations at 43 CFR Part 2800.

SUPPLEMENTARY INFORMATION: Golden Valley Electric Association has applied for a right-of-way to construct, operate, and maintain a 230kV power transmission line between Healy and Fairbanks, Alaska. The powerline is approximately 90 miles long and approximately 150 feet wide. An environmental analysis was prepared for the project which analyzed eight different route proposals. A Finding of No Significant Impact was not issued due to a high level of public controversy which resulted from the selection of the preferred alternative. The decision was then made to prepare an EIS.

Additional scoping meetings for this project will be held to identify issues which were not addressed during the original scoping meetings and public meetings. These scoping meetings will be held according to the tentative schedule described below:

Fairbanks, Alaska—June 23, 1997—BLM, Northern District, Office Bldg., 1150, University Ave.
Healy, Alaska—June 24, 1997—Tri Valley School, Lunchroom
Anderson, Alaska—June 25, 1997—Council Chambers, Anderson City Hall, 260, W. First St.
Nenana, Alaska—June 26, 1997—Nenana Public School, 2nd and C St.

The meetings will be held in an open-house format from 1:00 p.m. to 6:00 p.m. and a public workshop format will be conducted from 7:00 p.m. until 10:00 p.m. Any changes to the above meeting times or locations will be posted in the local newspaper and in local public buildings. Public scoping for this EIS will end on July 11, 1997. All written comments must be postmarked on or before July 11, 1997.

Information, comments, and nominations on specific issues to be addressed in the EIS are sought from all interested parties.

FOR FURTHER INFORMATION CONTACT: Gary Foreman, (907) 474–2339 or g1forema@ak.blm.gov., or by mail at 1150 University Avenue, Fairbanks, Alaska 99709.

Dated: May 19, 1997.

Dee Ritchie,

Northern District Manager.

[FR Doc. 97–13743 Filed 5–23–97; 8:45 am]

BILLING CODE 4130–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

Establishment of the Agate Fossil Beds National Monument

AGENCY: National Park Service, Department of the Interior.

SUMMARY: Notice to announce the formal establishment of the Agate Fossil Beds National Monument, effective June 14, 1997.

FOR FURTHER INFORMATION CONTACT: Superintendent, Scotts Bluff National Monument, P.O. Box 27, Gering, Nebraska 69341–0027; or telephone 308–436–4340.

SUPPLEMENTARY INFORMATION: Public Law 89–33 (79 Stat. 123.) approved June 5, 1965, authorized the Secretary of the Interior to establish the Agate Fossil Beds National Monument in the State of Nebraska as a unit of the National Park System. The park was authorized to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Agate Springs Fossil Quarries, and nearby related geological phenomena, to provide a center for continuing paleontological research and for the display and interpretation of the scientific specimens uncovered at such sites, and to facilitate the protection and exhibition of a valuable collection of Native American artifacts and relics that are representative of an important phase of Native American history.

Public Law 89–33 authorized the Secretary of the Interior to acquire by donation, or by purchase with donated or appropriated funds, or otherwise, title or a lesser interest in not more than three thousand one hundred and fifty acres of land in Township 28 North, Range 55 West, Sixth Principal Meridian, Sioux County, Nebraska, for inclusion in the Agate Fossil Beds National Monument in accordance with the boundary designation made pursuant to Section 2 thereof, which boundary may include such right-of-way as is needed for a road between the Stenomylus Quarry site and the monument lands lying in Section 3 or 10 of the said Township and Range.

Further, upon completion of land acquisition, the Secretary of the Interior may establish the park area by publishing a notice in the **Federal Register**, and any subsequent adjustment of its boundaries shall be effectuated in the same manner.

The National Park Service has prepared a map identified as Boundary Map of Agate Fossil Beds National Monument, Drawing Number 165/80,023, dated May 1997, which depicts the boundaries established by this notice. A copy of the map is available at the following locations: The Department of the Interior, National Park Service, Land Resources Division, 1849 ''C'' Street, NW, Room 2444, Washington, D.C. 20240; the National Park Service, Midwest Field Area, 1709 Jackson Street, Omaha, Nebraska 68102; and Scotts Bluff National Monument or Agate Fossil Beds National Monument at the address listed above.

Dated: May 13, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–13768 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Designation of Potential Wilderness as Wilderness, Joshua Tree National Park

Public Law (Pub. L.) 94–567, approved October 20, 1976, designated 429,690 acres as wilderness in Joshua Tree National Monument and further identified 37, 550 acres as potential wilderness additions. The National Park Service (NPS) depicted the wilderness and potential wilderness additions in maps entitled ''Joshua Tree Wilderness,'' numbered 156–20,003D and dated February 1977. In May 1978, the NPS published the legal description of the wilderness and potential wilderness additions. The maps and legal description are on file at the headquarters of Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, California 92277, and at the NPS Denver Service Center, Technical Information Center at 12795 West Alameda Parkway, Lakewood, Colorado.

The maps and legal description of 1977 and 1978 respectively show 422,320 acres of wilderness and 30,740 acres of potential wilderness additions, a lesser amount than cited in Public Law 94–567. However, under section 2 of Public Law 94–567 the maps and legal description ''* * * have the same force and effect as if included in this Act.''

Public Law 94–567 provided that ''* * * corrections of clerical and typographical errors in such maps and descriptions may be made.'' The NPS, after careful review of the maps and legal description of 1977 and 1978 respectively, detected two typographical errors. On January 15, 1997, the NPS corrected the errors which resulted in a recalculation of wilderness established by the Public Law 94–567 maps and legal description as 422,520 acres. This is an increase of 200 acres. The potential wilderness additions remain at 30,740 acres.

Section 3 of Public Law 94–567 provided a process whereby potential wilderness additions within the former Joshua Tree National Monument would become wilderness upon publication in the **Federal Register** of a notice by the Secretary of the Interior that all uses on the land, prohibited by the Wilderness Act (Pub. L. 88–577) have ceased.

The NPS has determined that all the Wilderness Act prohibited activities of the following described designated potential wilderness additions have ceased. Such lands are entirely in Federal ownership. Because such lands fully comply with Congressional directions in section 3 of Public Law 94–567, this notice hereby changes the status of the land, totalling 3,502.20 acres, more or less, from potential wilderness additions to wilderness. This acreage will be added to the National Wilderness Preservation System and bring the total wilderness acreage of the former Joshus Tree National Monument to 426,022 acres, more or less. The

potential wilderness additions will then consist of 27,238 acres, more or less.

Note that Congress abolished Joshua Tree National Monument and designated its lands and additional areas as the Joshua Tree National Park in Public Law 103–433, October 31, 1994. Public Law 103–433 designated as additional 131,780 wilderness acres in the part of Joshua Tree National Park that was added to the unit in 1994. The potential wilderness lands hereby designated as wilderness are described as:

Wilderness Unit 2

Potential Wilderness Additions

T. 3S., R. 7E., surveyed,
Sec. 13, NE¼ and S½;
Sec. 14, SE¼;
Sec. 21, N½ and that portion of S½ lying northeasterly of Joshua Tree National Park boundary;
Sec. 22, NE¼ and S½;
Sec. 23, N½ and SW¼;
Sec. 24, NW¼;
Sec. 27, that portion of W½ lying northeasterly of the Joshua Tree National Park boundary;
Sec. 28, that portion of NE¼ lying northeasterly of Joshua Tree National Part boundary.
T. 3S., R. 8E., surveyed
Sec. 18, W½ NE¼ NW¼, E½ NW¼ NW¼, W½ W½ W½ and Lots 3, 4, 9 and 10.
Containing 2,742.20 acres, more or less.

Wilderness Unit 3

Potential Wilderness Additions

T. 4S., R. 11E., fractional township,
Sec 10, unsurveyed, N¼ NE¼, SW¼ NE¼ and NW¼;
Sec 11, unsurveyed, N½ NW¼.
Containing 360 acres, more or less.

Wilderness Unit 6

Potential Wilderness Additions

T 5S., R. 11E., surveyed
Sec. 36, E½ and E½ SW¼.
Containing 400 acres, more or less.

Dated: April 18, 1997

Deny Galvin,

Director, National Park Service.

[FR Doc. 97–13770 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Niobrara National Scenic Riverway; Availability

AGENCY: National Park Service, Interior.

ACTION: Availability of final boundary map.

SUMMARY: In accordance with section 3(b) of the Wild and Scenic Rivers Act (62 Stat. 906 as amended; 16 U.S.C. 1274), notice is hereby given that the official, detailed boundary maps, Drawing Number 656–80000, dated April 25, 1997, for the Niobrara National Scenic River are completed and available.

FOR FURTHER INFORMATION CONTACT: Superintendent Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, telephone 402–336–3970.

SUPPLEMENTARY INFORMATION: On May 24, 1991, the 76-mile stretch of the Niobrara River east of Valentine, Nebraska, at Borman Bridge to Highway 137 was designated a scenic river by Public Law 102–50, an amendment to the Wild and Scenic Rivers Act. In accordance with section 3(c) of the Wild and Scenic Rivers Act notice is hereby given that the above said maps are now available for inspection at the following seven locations: The Department of the Interior, National Park Service, Land Resources Division, 1849 C Street NW, Room 2444, Washington, D.C. 20240; Midwest Field Area, Land Resources Division, 1709 Jackson Street, Omaha, Nebraska 68102; Niobrara/Missouri National Scenic Riverways Headquarters, 114 North 6th Street, O'Neill, Nebraska 68763–0591; Cherry County Court House, County Clerk's Office, 365 North Main Street, Valentine, Nebraska; Keya Paha County Court House, County Clerk's Office, Court House Square, Springview, Nebraska; Brown County Court House, County Clerk's Office, 148 West 4th Street, Ainsworth, Nebraska; Rock County Court House, County Clerk's Office 400 State Street, Bassett, Nebraska. Maps are also available in six public libraries as follows: Ainsworth, Atkinson, Bassett, Norfolk, Stuart, and Valentine. Please address any questions or requests to Superintendent at the address given above.

Dated: May 19, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–13764 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cuyahoga Valley National Recreation Area; Notice of Availability

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of environmental assessment and management plan for the white-tailed deer.

SUMMARY: Notice is hereby given that the National Park Service has prepared an Environmental Assessment for the management of the deer population in Cuyahoga Valley National Recreation Area, located within Summit and Cuyahoga Counties, Ohio.

The environmental assessment and management plan are available for public review and comment for a period of 30 days from the publication date of this notice. The documents can be viewed during normal business hours at the Office of the Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio. Copies can be requested from the Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141. Please forward all comments to the Superintendent at this address.

DESCRIPTION OF ACTION: This plan proposes the management of white-tailed deer within Cuyahoga Valley National Recreation Area in Summit and Cuyahoga counties, Ohio. The plan will examine and analyze four alternatives for deer management in the park, and will identify one of them as a preferred alternative. The final decision will be made at least thirty days after release of the document.

ALTERNATIVES CONSIDERED: (A) No Action/Status Quo; (B) Reproductive Intervention; (C) Population Management (reduction by sharpshooting/capture and euthanasia); (D) Combined Management (reduction, reproductive intervention when feasible).

FOR FURTHER INFORMATION CONTACT: Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141, or telephone 216–546–5903.

Dated: May 15, 1997.

John P. Debo, Jr.,

Superintendent, Cuyahoga Valley National Recreation Area.

[FR Doc. 97–13769 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Dayton Aviation Heritage Commission; Notice of Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Dayton Aviation Heritage Commission. Notice of this meeting is required under

the Federal Advisory Committee Act (Pub. L. 92–463).

DATE, TIME, AND ADDRESS: Tuesday, June 3, 1997, 5:15 p.m. to 6:30 p.m., Innerwest Priority Board conference room, 1024 West Third Street, Dayton, Ohio 45407.

This business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the Superintendent, Dayton Aviation, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: William Gibson, Superintendent, Dayton Aviation, National Park Service, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409, or telephone 513–225–7705.

SUPPLEMENTARY INFORMATION: The Dayton Aviation Heritage Commission was established by Public Law 102–419, October 16, 1992.

Dated: May 13, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–13766 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Keweenaw National Historical Park Advisory Commission; Notice of Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Keweenaw National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: Tuesday, June 3, 1997; 8:30 a.m. until 4:30 p.m.

ADDRESSES: Keweenaw National Historical Park Headquarters, 100 Red Jacket Road (second floor), Calumet, Michigan 49913–0471. This meeting is open to the public. We will begin with the Chairman's welcome; minutes of the previous meeting; update on the general management plan; update on park activities; old business; new business; next meeting date; adjournment.

FOR FURTHER INFORMATION CONTACT: Superintendent, Keweenaw National Historical Park, P.O. Box 471, Calumet, Michigan 49913–0471, or telephone 906–337–3168.

SUPPLEMENTARY INFORMATION: The Keweenaw National Historical Park was established by Public Law 102–543 on October 27, 1992.

Dated: May 13, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–13767 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Agenda for the June 11, 1997 Public Meeting for the Advisory Commission for the San Francisco Maritime National Historical Park; Public Meeting Fort Mason Center, Building F 10:00 AM–12:15 PM

10:00 AM

Welcome—Neil Chaitin, Chairman

Opening Remarks—Neil Chaitin, Chairman William G. Thomas, Superintendent

Approval of Minutes—February 12, 1997 meeting

10:15 AM

Update—Programmatic Agreement between the Park, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation, regarding historical compliance issues within the Draft General Management of 1996. Stephen Canright, Curator of History

10:30 AM

Update—Haslett Warehouse, William G. Thomas, Superintendent

10:40 AM

Update—General Management Plan, William G. Thomas

10:50 AM

Status—Space needs, 2nd floor building E, William G. Thomas

11:00 AM

Status—Ship Preservation Update, Wayne Boykin and Staff

11:45 AM

WAPAMA—Status of Alarm System Marc Hayman, Chief IRM

11:55 AM

Public comments and questions

12:15 PM

Agenda items/Date for next meeting

William G. Thomas,

Superintendent.

[FR Doc. 97–13765 Filed 5–23–97; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731–TA–757–759 (Final); Collated Roofing Nails From China, Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–757–759 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China, Korea, and Taiwan of collated roofing nails,[1] provided for in subheading 7317.00.55 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: May 9, 1997.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of

[1] For purposes of these investigations, Commerce has defined the subject merchandise as ''collated roofing nails made of steel, having a length of 1 3/16 inch to 1 13/16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.''

affirmative preliminary determinations by the Department of Commerce that imports of collated roofing nails from China, Korea, and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in a petition filed on November 26, 1996, by the Paslode Division of Illinois Tool Works Inc., Vernon Hills, IL.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on September 17, 1997, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on September 30, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 23, 1997. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 25, 1997, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 24, 1997. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 8, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before October 8, 1997. On October 27, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 29, 1997, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: May 20, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–13783 Filed 5–23–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–398]

In the Matter of Certain Multiple Implement, Multi-Function Pocket Knives and Related Packaging and Promotional Materials; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed on March 13, 1997, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Swiss Army Brands, Inc. and Swiss Army Brand Ltd., One Research Drive, Shelton, Connecticut 06484 and Precise Imports Corporation (d/b/a Precise International), 15 Corporate Drive, Orangeburg, New York 10962–2625. Supplements to the Complaint were filed on March 21, 1997, March 27, 1997, and April 29, 1997, and amendments were filed on March 28, 1997 and May 8, 1997. The Complaint, as amended and supplemented, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain multiple implement, multi-function pocket knives and related packaging and promotional materials by reason of (a) infringement of common law trademarks in the words ''Swiss Army'' and in a cross-and-shield design, (b) infringement of U.S. Trademark Registration Nos. 1,734,665, 1,715,093,

1,636,710, 1,636,849, 1,636,878, 1,636,915, 1,636,955, 1,642,001, and 1,642,224, (c) dilution of the ''SWISS ARMY'' common law and registered trademarks and dilution of the cross-and-shield common law and registered trademarks, (d) infringement of Complainants' trade dress, (e) passing off, and (f) false designation of origin. The Complaint also alleges that there exists a domestic industry with respect to the asserted intellectual property. The Complaint further alleges that the threat or effect of the proposed Respondents' unfair acts is to destroy or substantially injure that domestic industry.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10.

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 19, 1997, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain multiple implement, multi-function pocket knives and related packaging and promotional materials by reason of (i) infringement of common law trademarks in the words ''Swiss Army'' and in a cross-and-shield design, (ii) misappropriation of trade dress, (iii) dilution of common law trademarks in the words ''Swiss Army'' and in a cross-and-shield design and of U.S. Registered Trademark Nos. 1,734,665, 1,715,093, 1,636,710, and 1,636,849, (iv) passing off, and (v) false representation of source, the threat or effect of which is to destroy or substantially injure an industry in the United States; and

(b) Whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain multiple implement, multi-function pocket knives and related packaging and promotional materials by reason of infringement of U.S. Registered Trademark Nos. 1,734,665, 1,715,093, 1,636,710, and 1,636,849.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Swiss Army Brands, Inc., One Research Drive, Shelton, Connecticut 06484
Swiss Army Brand Ltd., One Research Drive, Shelton, Connecticut 06484
Precise Imports Corporation, d/b/a Precise International, 15 Corporate Drive, Orangeburg, NY 10962–2625

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Arrow Trading Co., Inc., 1115 Broadway, New York, NY 10010
Ewins Hardware Pte. Ltd., Block 6, 154 Tagore Lane, Singapore 2678
China Light Industrial Products, Import and Export Co., 209 Yuan Ming Yuan Road, Shanghai 200002, People's Republic of China
International Branded Cutlery, Inc., 98 Cuttermill Road, Great Neck, NY 11021
Thomas Jewelers, 73 North Main Street, Logan, Utah 84321
Sapp Brothers, 2914 Upland Parkway, Sidney, Nebraska 69162

(c) Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-L, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 C.F.R. 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: May 20, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–13782 Filed 5–23–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; 1996 National Youth Gang Survey.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until July 28, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Ms. D. Elen Grigg, Office of Juvenile Justice and Delinquency Prevention (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Ms. D. Elen Grigg, (202) 616–3651, Office of Juvenile Justice and Delinquency Prevention, Room 742, 633 Indiana Avenue, NW, Washington, DC 20531.

Overview of this information collection:

1. *Type of information collection:* New Collection.

2. *The title of the form/collection:* 1996 National Youth Gang Survey.

3 *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State or Local law enforcement agencies (mainly police and sheriff's departments, and in rare cases, state law enforcement agencies). Other: None.

Abstract: This collection will gather information related to youth and their activities for research and assessment purposes.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

Survey-Version A: 4,000 respondents: 5 minutes to respond.

Survey-Version B: 4,000 respondents: 10 minutes to respond.

6. *An estimate of the total public burden (in hours) associated with the collection:* 1000 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–13684 Filed 5–23–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Chief Financial Officer; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of the Chief Financial Officer is soliciting comments concerning the proposed extension of Department of Labor regulations implementing the Salary Offset provision of the Debt Collection Act of 1982.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 28, 1997.

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Mark Wolkow, Department of Labor, Room S–4502 Frances Perkins Building, 200 Constitution Ave. NW, Washington, D.C. 20210; 202–219–8184 x123 (phone); 202–219–4975 (fax); mwolkowdol.gov (email).

SUPPLEMENTARY INFORMATION:

I. Background: The Debt Collection Act of 1982 and the Office of Personnel Management salary offset regulations, as implemented in the Department by 29 CFR part 20, require Federal agencies to afford debtors the opportunity to exercise certain rights before the agency makes a salary offset to collect a debt. In the exercise of these rights, the debtor may be asked to provide a written explanation of the basis for disputing the amount or existence of a debt alleged owed the agency. A debtor may also be required to provide asset, income, liability, or other information necessary for the agency to determine the debtor's ability to repay the debt, including any interest, penalties and administrative costs assessed.

Information provided by the debtor will be evaluated by an independent hearing official in order to reconsider the responsible agency official's decision with regard to the existence or amount of the debt. Information concerning the debtor's assets, income, liabilities, etc., will be used by the independent hearing official to determine whether the agency's action with regard to salary would create undue financial hardship for the debtor, or to determine whether the agency should accept the debtor's proposed repayment schedule.

If a debtor disputes or asks for reconsideration of the agency's determination concerning the debt, the debtor will be required to provide the information or documentation necessary to state his/her case. While much or all of this information might be available in agency records, it would only be appropriate to offer the debtor the opportunity to supply any information deemed relevant to his/her case.

Information concerning the debtor's assets, income, liabilities, etc., would

typically not be available to the agency unless submitted by the debtor.

II. Current Actions: Failure of the agency to request the information described would either violate the debtor's rights under the Debt Collection Act of 1982 or limit the agency's ability to collect outstanding debts.

If a debtor wishes to appeal an agency action based on undue financial hardship, he/she may be asked to submit information on his/her assets, income, liabilities, or other information considered necessary by the hearing official for evaluating the appeal. Use of the information will be explained to the debtor when it is requested; consent to use the information for the specified purpose will be implied from the debtor's submission of the information.

III. Type of Review: Extension without change.

IV. Agency: Office of the Chief Financial Officer.

V. Title: Salary Offset.

VI. OMB Number: 1225–0038.

VII. Agency Number: N/A.

VIII. Affected Public: Federal employees.

IX. Cite/Reference/Form/etc: It is estimated that 25% of the individuals indebted to the Department will contest the proposed collection action and will request a review and/or appeal an action based on undue financial hardship. In some cases the debtor will make one request, but not the other. However, in most cases, it is expected that the debtor will request both actions—first, review of the determination of indebtedness, and second, relief because of undue financial hardship.

Annual burden was estimated based on a review of debtor responses to similar requests for information. Debtors typically respond in 1–2 page letters, supplemented by copies of documents. Letters are most often typewritten. Annual burden is based on a 1¼ hour time allotment to prepare and type a letter. Debtors will not be asked to respond on a form.

X. Estimated Total Burden Hours: 375.

XI. Estimated Total Burden Cost:

Estimated annual cost to the Federal Government: $31,485.

Estimated annual cost to the respondents: $8,136.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 20, 1997.

Mark M. Wolkow,

Financial Systems Analyst.

[FR Doc. 97–13800 Filed 5–23–97; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–073]

NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee meeting.

DATES: June 11 and 12, 1997, 8:00 a.m. to 5:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 262, Room 100, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert W. Schlickenmaier, National Aeronautics and Space Administration, Headquarters, Washington, DC 20546, 202/358–4638.

SUPPLEMENTARY INFORMATION: The meeting will be open the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:.

—FAA reports on the National Airspace System (NAS) Operational Concept for 2005; NAS Architecture; and Flight 2000

—Reports on Industry-Government ''Communications Navigation and Surveillance (CNS)/Air Traffic Management (ATM) Focus Team''

—Report from the FAA–NASA Interagency Air Traffic Management Integrated Product Team

—NASA reports on Advanced Air Traffic Technology and Terminal Area

—Productivity elements of Advanced Subsonic Technology program; and related on-going ATM-related research and technology

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: May 20, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer.

[FR Doc. 97–13814 Filed 5–23–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 11, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301) 713–7110.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film,

magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Health and Human Services, Centers for Disease Control and Prevention (N1–442–97–1). Comprehensive schedule for records of the National Immunization Program.

2. General Services Administration, Public Buildings Service (N1–121–96–1). Physical security records, and safety and environmental records.

3. General Services Administration, Federal Supply Service (N1–137–96–2). Fleet management and motor vehicle records.

4. Office of Government Ethics (N1–522–97–1). Records of the Office of the Director (substantive program records are scheduled for permanent retention).

5. Panama Canal Commission (N1–185–97–11). Personnel Management records.

6. Tennessee Valley Authority (N1–142–97–4). Employee benefits records.

Dated: May 16, 1997.

Michael J. Kurtz,

Assistant Archivist, for Record Services—Washington, DC.

[FR Doc. 97–13686 Filed 5–23–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Anthropological and Geographic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), The National Science Foundation (NSF) announces the following meeting:

Name: Advisory Panel for Anthropological and Geographic Sciences (1757).

Date & Time: June 13, 1997 8:30 a.m.—5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. John E. Yellen Program Director for SBER/MRI Instrumentation, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1759.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate SBER/MRI Instrumention proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 21, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13795 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: June 10–11, 1997; 8:00 am—5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 390, Arlington, Va 22230.

Type of Meeting: Closed.

Contact Person: H. Frederick Bowman, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 20, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13733 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in the Division of Electrical and Communications Systems; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period June 1 through June 30, 1997, the Special Emphasis Penal will be holding panel meetings to review and evaluate research proposals. The dates, contact person, and types of proposals are as follows:

Special Emphasis Panel in the Division of Electrical and Communications System (1196)

1. *Date:* June 16–17, 1997.

Contact: Radhakishan Baheti, Program Director, Knowledge, Modeling and Computational Intelligence, Division of Electrical and Communications Systems, Room 675, 703–306–1339.

Type of Proposal: Knowledge, Modeling and Computational Intelligence.

2. *Date:* June 19–20, 1997.

Contact: Radhakishan Baheti, Program Director, Knowledge, Modeling and Computational Intelligence, Division of Electrical and Communications Systems, Room 675, 703–306–1339.

Type of Proposal: Knowledge, Modeling and Computational Intelligence.

3. *Date:* June 19–20, 1997.

Contact: Deborah Crawford, Program Director Physical Foundation and Enabling Technologies, Division of Electrical and

Communications Systems, Room 675, 703–306–1339.

Type of Proposal: Physical Foundation and Enabling Technologies.

Times: 8:30 to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, Va.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Division as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 20, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13736 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (1173).

Date & Time: June 11–12, 1997; 12:00 p.m. to 5:30 p.m. and 8:30 a.m. to 5:00 p.m.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, Va.

Type of Meeting: Open.

Contact Person: Sue Kemnitzer, Executive Secretary, Room 585, NSF, 4201 Wilson Blvd., Arlington, Va. 22230. Phone: (703) 306–1382.

Minutes: May be obtained from the contact person at the above address.

Purpose of Meeting: To advise NSF on policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities currently underrepresented in scientific, engineering, professional, and technical fields and to advise NSF concerning implementation of the provisions of the Science and Engineering Equal Opportunities Act.

Agenda

1. Congressional Report;
2. Discussions with the Human Resource Working Group, receive update on Merit Review Task Force, and briefing on Demographic Characteristics of NSF;
3. Discussion on Women, Minorities, and Persons with Disabilities Report;
4. Follow up on development of a strategic plan for the Committee and other items from previous meetings.

Dated: May 20, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13734 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences; Committee of Visitors (#1755).

Date and Time: June 19–20, 1997 from 8:30 am to 5:00 pm.

Place: Room 380, NSF, 4201 Wilson Boulevard, Arlington, Va.

Type of Meeting: Closed.

Contact Person: Dr. Michael Mayhew, Division of Earth Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1557.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the education and human resource activities in all divisions of the Directorate for Geosciences.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: May 20, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13737 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (1756).

Date & Time: Thursday, June 26–Friday, June 27, 1997; 8:30 a.m.–5:00 p.m.

Place: Room 730, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Bruce Malfait, Program Director, Ocean Drilling Program, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1581.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Ocean Drilling Program proposals as part of the selection process for awards.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 21, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13794 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Graduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Graduate Education (57).

Date and Time: June 12–13, 1997; 8:00 a.m. to 5:00 p.m.

Place: NSF, Room 320, 4201 Wilson Blvd., Arlington, Va 22230.

Type of Meeting: Closed.

Contact Person: Dr. Sonia Ortega, Program Director, PFSMETE, Room 907N, National Science Foundation, 4201 Wilson Blvd., Arlington, Va. 22230, telephone (703) 306–1697.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the NSF Postdoctoral Fellowships in Science, Mathematics, Engineering and Technology Education program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. The matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 20, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13735 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs (1130); Committee of Visitors.

Date and Time: June 24–25, 1997; 8:30 a.m. to 5:00 p.m.

Place: Rm. 330, National Science Foundation, 4201 Wilson Boulevard, Arlington, Va.

Type of Meeting: Closed.

Contact Person: Dr. Erick Chiang, Acting Deputy Director, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, Va 22230. Telephone: (703) 306–1033.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Arctic and Antarctic Science Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: May 20, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–13738 Filed 5–23–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Proposed Rule, 10 CFR parts 30, 40, 50, 70, and 72, Self-Guarantee of Decommissioning Funding by Non-Profit and Non-Bond Issuing Licensees.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Annually and one-time submittal of revised decommissioning funding plan.

5. *Who will be required or asked to report:* Licensees opting to use self-guarantee.

6. *An estimate of the number of responses:* 42.

7. *The estimated number of annual respondents:* 42.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 277 hours (6.6 hrs. per response).

9. *An indication of whether Section 3507(d). Pub. L. 104–13 applies:* Applicable.

10. *Abstract:* The proposed rule would establish self-guarantee as an additional voluntary mechanism for financial assurance by non-profit and non-bond issuing licensees if specified criteria are met.

Submit, by June 26, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. The proposed rule indicated in ''The title of the information collections'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** notice. Instructions for accessing the electronic OMB clearance package for the rulemaking have been appended to the electronic rulemaking. Members of the public may access the electronic OMB clearance package by following the directions for electronic access provided in the preamble to the titled rulemaking.

Comments and questions should be directed to the OMB reviewer by June 26, 1997. Edward Michlovich, Office of Information and Regulatory Affairs, (3150–0017, –0020, –0011, –0009, and –0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 19th day of May, 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–13779 Filed 5–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* extension.

2. *The title of the information collection:* 10 CFR part 40, ''Domestic Licensing of Source Material,'' NRC Form 244, ''Registration Certificate—Use of Depleted Uranium under General License,'' and NRC Form 484, ''Domestic Monitoring Data Report.''

3. *The form number if applicable:* NRC Form 244 and NRC Form 484.

4. *How often the collection is required:* Reports required under 10 CFR part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 244 is submitted when

depleted uranium is received or transferred under general license. NRC Form 484 is submitted biannually to report groundwater data necessary to implement EPA groundwater standards.

5. *Who will be required or asked to report:* 10 CFR part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

NRC Form 244: Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).

NRC Form 484: Uranium recovery facility licensees reporting groundwater monitoring data pursuant to 10 CFR 40.65.

6. *An estimate of the number of responses:* 10 CFR part 40: 447 for NRC licensees and 311 for Agreement State licensees.

NRC Form 244: 20 for NRC licensees and 40 for Agreement State licensees.

NRC Form 484: Included in 10 CFR Part 40, above.

7. *The estimated number of annual respondents:* 10 CFR part 40: 156 for NRC licensees and 172 for Agreement State licensees.

NRC Form 244: 20 for NRC licensees and 40 for Agreement State licensees.

NRC Form 484: Included in 10 CFR Part 40, above.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 10 CFR part 40: 26,049 hours for reporting requirements and 9,019 hours for recordkeeping requirements, or a total of 35,068 hours for NRC licensees; 28,083 hours for reporting requirements and 9,398 hours for recordkeeping requirements, or a total of 37,481 hours for Agreement State licensees.

NRC Form 244: 20 hours for NRC licensees and 40 hours for Agreement State licensees for reporting requirements.

NRC Form 484: Included in 10 CFR Part 40, above.

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR part 40 establishes requirements for licenses for the receipt, possession, use, and transfer of radioactive source and byproduct material. NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by 10 CFR part 40. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR part 40 for uranium recovery licensees. The application, reporting, and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by June 26, 1997. Edward Michlovich, Office of Information and Regulatory Affairs (3150–0020 and 3150–0031), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 19th day of May, 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–13780 Filed 5–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN–529, and STN–530]

Arizona Public Service Company; Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. NPF–41, NPF–51, and NPF–74, issued to Arizona Public Service Company (the licensee), for operation of the Palo Verde Nuclear Generating Station Unit Nos. 1, 2, and 3, located in Maricopa County, Arizona.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt Arizona Public Service Company from the requirements of 10 CFR 70.24, which requires a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated March 28, 1997.

The Need for the Proposed Action

Power reactor license applicants are evaluated for the safe handling, use, and storage of special nuclear material. The proposed exemption from criticality accident requirements is based on the original design for radiation monitoring at Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3 (PVNGS) as discussed in the NUREG–0857, ''Safety Evaluation Report Related to the Operation of Palo Verde Nuclear Generating Station, Units 1, 2, and 3.'' The exemption was granted with the original Part 70 license, for the PVNGS units, but it expired with the issuance of the Part 50 licenses when the exemption was inadvertently not included in those licenses. Therefore, the exemption is needed to clearly define the design of the plant as evaluated and approved for licensing.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Palo Verde Technical Specifications, the design of

the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. Technical Specifications requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50,—General Design Criteria for Nuclear Power Plants, Criterion 62, requires the criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at PVNGS, as identified in the Technical Specifications and the Updated Final Safety Analysis Report (UFSAR). PVNGS Technical Specifications Section 5.3.1.3, states that the new fuel storage racks are designed and shall be maintained with Keff less than or equal to 0.95, if fully flooded with unborated water, and less than or equal to 0.98, if moderated by aqueous foam, and a nominal 17-inch center to center distance between fuel assemblies placed in the storage racks. UFSAR Section 9.1.1.1, New Fuel Storage Design Bases, states that accidental criticality shall be prevented for the most reactive arrangement of new fuel stored, with optimum moderation, by assuring that Keff is less than 0.98, under normal and accident conditions. UFSAR Section 9.1.1.3, Safety Evaluation, states that the new fuel rack design and location ensures that the design bases of Section 9.1.1.1 are met.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluent nor cause any significant occupational exposures since the Technical Specifications, design controls (including geometric spacing of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant non-radiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Operation of Palo Verde Nuclear Generating Station, Units 1, 2, and 3,'' dated February 1982, (NUREG–0841).

Agencies and Persons Consulted

In accordance with its stated policy, on April 3, 1997, the staff consulted with the Arizona State official, Mr. William Wright of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 28, 1997, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document room located at the Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 16th day of May 1997.

For the Nuclear Regulatory Commission.

James Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–13781 Filed 5–23–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Save Wills Creek Water Resources Committee Receipt of Petition and Issuance of a Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated July 22, 1996, Sherwood Bauman, on behalf of the Save Wills Creek Water Resources Committee, requested that the Nuclear Regulatory Commission (Commission) take action with regard to Shieldalloy Metallurgical Corporation and Foote Mineral Company (now Cyprus Foote Mineral Company). Specifically, the Petitioner requested NRC to take the following actions:

(1) NRC should reinstate Foote Mineral's original license so that Shieldalloy and Cyprus Foote become co-responsible licensees concerning the proper remediation and decommissioning of the Shieldalloy site;

(2) Any and all parties involved in any wrongdoing, as alleged in the Petitioner's letter, should be terminated from employment, and where appropriate, criminal charges pursued;

(3) NRC should terminate the development of the environmental impact statement (EIS) for the Shieldalloy site;

(4) In place of the EIS, Shieldalloy and Cyprus Foote should be jointly ordered to submit a decommissioning plan for licensed material that includes only a plan to remediate licensed material, including grading and evaluation of all various assorted options. One option considered should be offsite disposal at a licensed disposal facility; and

(5) The Ohio Environmental Protection Agency (OEPA) and Ohio Department of Health should evaluate all unlicensed slag found at the Shieldalloy site.

As a basis for the request, the Petitioner asserts that there has been collusion among agencies and responsible parties to remediate offsite slag, that NRC failed to properly police Foote Mineral for a period of 12 years, and that NRC then allowed Foote Mineral to retire its license without investigating the licensee's claims that no licensable materials remained onsite. The Petitioner also asserts that NRC illegally allowed Foote Mineral to return slag to a site owned by Shieldalloy, in the process conspiring with State of Ohio agencies.

The Petitioner further argues that Shieldalloy has a decommissioning plan that would wrongfully mix licensed and unlicensed waste. In support of this claim, he states his belief that the material at the Shieldalloy site is made up of 150,000 tons of licensed material and 350,000 tons of nonlicensed material. The Petitioner believes that Shieldalloy's decommissioning plan illegally combined both licensed and

unlicensed materials, thus greatly reducing the real risk factors from exposure to licensed material and wrongfully enhancing the company's own preferred plan for in-situ disposal, which would require the NRC to waive enforcement rules and regulations. The Petitioner also alleges an NRC-Ohio conspiracy to allow in-situ disposal to proceed.

The NRC response to the Petitioner's requests have been evaluated by the Director of the Office of Nuclear Material Safety and Safeguards. After review of the Petition, the Director has denied the Petitioner's requests.

The Director's Decision concluded that no health and safety issues have been raised regarding Shieldalloy or Cyprus Foote that would require the actions requested by the Petitioner. The Petitioner has not provided any information in support of his requests of which the NRC was not already aware. The complete ''Director's Decision under 10 C.F.R. 2.206'' (DD–97–12) is available for public inspection in the Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C. 20555. The Director's Decision is also available on the NRC Electronic Bulletin Board at 1–(800)–952–9676.

A copy of this Decision will be filed with the Secretary for the Commission's review, in accordance with 10 CFR 2.206. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 14th day of May 1997.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–13778 Filed 5–23–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Emergency Clearance of the Revised Information Collection RI 10–72

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for emergency clearance of the following revised information collection. RI 10–72, Client Satisfaction Survey, is used to determine how well the U.S. Office of Personnel Management has served Federal civil service annuitants and survivor annuitants.

The questionnaire will be sent to approximately 1500 annuitants and will require approximately 25 minutes to complete. The annual estimated burden is 625 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before June 2, 1997. OMB will have 5 calendar days to act after the close of this **Federal Register** Notice.

ADDRESSES: Send or deliver comments to Chris Brown, Chief, Management Information Branch, Quality Assurance Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 4316, Washington, DC 20415–0001.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–13628 Filed 5–23–97; 8:45 am]

BILLING CODE 6325–01–M′

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Extension:

Rule 12b–1, SEC File No. 270–188, OMB Control No. 3235–0212

Rule 17f–1, SEC File No. 270–236, OMB Control No. 3235–0222

Form N–SAR, SEC File No. 270–292, OMB Control No. 3235–0330

Form N–17f–1, SEC File No. 270–316, OMB Control No. 3235–0359

N–17f–2, SEC File No. 270–317, OMB Control No. 3235–0360

Form ADV–E, SEC File No. 270–318, OMB Control No. 3235–0361

30b2–1, SEC File No. 270–213, OMB Control No. 3235–0220

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 12b–1 under the Investment Company Act of 1940 (''1940 Act'') permits a registered open-end management investment company (''mutual fund'') to distribute its own shares and pay expenses of distribution provided, among other things, the mutual fund adopts a written plan, and has in writing any agreements relating to the implementation of the plan. The rule requires the plan to be approved by the mutual fund's directors and shareholders; provides for quarterly reports to the board regarding amounts spent under the plan; requires the board to review the plan at least annually; requires board and shareholder approval for certain changes to the plan; and imposes certain recordkeeping requirements.

It is estimated that approximately 4,165 mutual funds rely on the rule each year, and the average annual burden per fund is estimated to be 40 hours. The total annual burden for all mutual funds relying on the rule is estimated to be 166,600 hours.

Rule 17f–1 under the 1940 Act provides that any registered management investment company (''fund'') that wishes to place its assets in the custody of a national securities exchange may do so only pursuant to a written contract that must ratified initially and approved annually by a majority of the fund's board of directors and that contains certain specified provisions. The rule also requires that the fund's assets in such custody be examined by an independent public account at least three times during the fund's fiscal year. The rule requires the written contract and the certificate of each examination to be transmitted to the Commission. The annual burden of the rule's requirements is estimated to be about 2½ hours for each of approximately 31 funds that maintain their assets with a national securities exchange, for an estimated total of 77.5 burden hours annually.

Form N–SAR under the 1940 Act is used by registered investment companies for annual or semi-annual reports required to be filed with the Commission. The annual burden is approximately to 31.5 hours.

Form N–17f–1 is the cover sheet for accountant examination certificates filed pursuant to rule 17f–1 under the 1940 Act by management investment companies maintaining securities or other investments with companies that

are members of a national securities exchange. The time needed for investment companies to comply with the requirements of the form is approximately nine minutes annually.

Form N–17f–2 is the coversheet for account examination certificates filed pursuant to rule 17f–2 under the 1940 Act by management investment companies maintaining custody of securities or other investments. The time needed for investment companies to comply with the requirements of the form is approximately nine minutes annually.

Form ADV–E is the coversheet for accountant examination certificates filed pursuant to rule 206(4)–2 under the Investment Advisers Act by investment advisers retaining custody of client securities or funds. Registrants each spend approximately three minutes annually to comply with the requirements of the form.

Rule 30b2–1 requires the filing of four copies of every periodic or interim report transmitted by or on behalf of any registered investment company to its shareholders. The annual burden of filing the reports is estimated to be negligible.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 19, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13806 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 22670; 812–10056]

Eaton Vance Management, et al.; Notice of Application

May 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APLLICANTS: Eaton Vance Management, Eaton Vance Distributors, Inc. (collectively, ''Eaton Vance''), Boston Management and Research (''BMR''), Eaton Vance Prime Rate Reserves (''Prime Rate''), EV Classic Senior Floating-Rate Fund (''Classic Senior''), and Senior Debt Portfolio (the ''Portfolio''). Prime Rate and Classic Senior collectively are referred to as the ''Funds.''

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 23(c) of the Act for an exemption from certain provisions of rule 23c–3.

SUMMARY OF APPLICATION: Applicants seek an order to permit certain closed-end investment companies to make rotating, monthly tender offers and impose early withdrawal charges (''EWCs'').

FILING DATES: The application was filed on March 25, 1996, and amended on October 21, 1996. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 13, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: (except the Portfolio) 24 Federal Street, Boston, MA 02110; the Portfolio, c/o IBT Trust Company (Cayman), Ltd., The Bank of Nova Scotia Building, P.O. Box 501, Georgetown, Grand Cayman, Cayman Islands, BWI.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Branch Chief, at (202) 942–0564, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds and the Portfolio are registered closed-end management investment companies. Eaton Vance serves as principal underwriter, investment adviser, and/or administrator for the Funds. BMR, a wholly-owned subsidiary of Eaton Vance Management, serves as investment adviser to the Portfolio. Applicants request that the order apply to any registered closed-end investment company for which Eaton Vance, BMR, or any entity controlling, controlled by, or under common control with Eaton Vance acts as principal underwriter, investment adviser, or administrator. Each investment company that presently intends to rely on the requested relief is named as an applicant.

2. The Funds invest all of their investable assets in ''interests'' of the Portfolio pursuant to a master-feeder investment structure.[1] Through their investment in the Portfolio, all three feeder funds invest in senior secured floating rate loans. The Portfolio invests at least 80 percent of its total assets in senior secured floating rate loans under normal circumstances. Up to 20 percent of the Portfolio's assets may be held in cash, and invested in investment grade short-term debt obligations and interests in unsecured loans.

3. Investment management and custodial activities are performed, and associated expenses are incurred, at the master fund level. The feeder funds share in these expenses in proportion to their respective interests in the master fund. Administration, distribution, and shareholder servicing activities are performed, and related expenses are incurred, at the feeder fund level. Such expenses vary among the feeder funds.

4. The Funds continuously offer their shares to the public at net asset value. There is no secondary market for shares of the Funds. The Funds' trustees consider, with the expectation of adopting, quarterly repurchase offers to shareholders under section 23(c)(2) of the Act. The Funds obtain cash to consummate repurchase offers through quarterly offers by the Portfolio to repurchase interests held by the Funds in the Portfolio. Those repurchases are made at net asset value of the interests on the expiration date of the Portfolio's repurchase offer. Each Fund uses the proceeds from the interests that it tenders to the Portfolio to purchase shares tendered by its shareholders at net asset value on the Portfolio's

[1] A third feeder fund, EV Medallion Senior-Floating Rate Fund, offers shares to foreign investors outside the United States.

repurchase offer's expiration date (less any EWC).[2]

5. The Funds impose EWCs on shares accepted for repurchase that have been held for less than a certain period of time. The EWCs are paid to Eaton Vance Distributions, Inc. to allow it to recover a portion of its distribution expenses. Applicants state that are EWCs also are intended to discourage investors from purchasing Fund shares and quickly redeeming them in tender offers. Prime Rate's EWC varies from three percent of the value of the shares accepted for repurchase (for shares held less than one year) to zero (for shares held more than five years). Classic Senior imposes an EWC of one percent of the value of shares accepted for repurchase held less than one year.

6. Classic Senior also pays service fees pursuant to a plan (the ''Service Plan'') that is designed to meet the requirements of the National Association of Securities Dealers (''NASD'') Conduct Rule 2830(d) as if Classic Senior were an open-end investment company.[3] Under the Service Plan, Classic Senior may make service fee payments in amounts not to exceed .25% of its average daily net assets for any fiscal year. Classic Senior's trustees have implemented the Service Plan by authorizing Classic Senior to make quarterly payments to Eaton Vance Distributors, Inc. and other authorized firms in amounts not expected to exceed .15% of Classic Senior's average daily net assets for any fiscal year.

7. The Funds offer their shareholders an exchange option whereby shareholders tendering shares may use proceeds from their shares to invest in certain Eaton Vance open-end investment companies without incurring the EWC they would have paid had they received cash for their tendered shares.[4] Any exchange option will comply with rule 11a–3 under the Act as if the Funds were open-end investment companies subject to such rule. Applicants believe that the exchange option is consistent with rule 23c–3 under the Act.

8. Applicants propose to convert the Funds and the Portfolio to ''interval funds'' as provided in rule 23c–3 under the Act and to organize additional interval funds in the future. The Funds and the Portfolio expect to continue operating in a master-feeder structure after conversion to interval fund status. The Funds would continue to make quarterly repurchase offers to their shareholders at net asset value, using the cash proceeds of interests they tender to the Portfolio. Applicants propose, however, that the Portfolio would make separate, quarterly tender offers to each feeder fund on a rotating basis, with each of the feeder funds receiving a tender offer once a quarter.

9. The Portfolio would offer to purchase an identical percentage of the interests held by each feeder fund during each quarter. The Portfolio's board would determine the applicable percentage in advance of the upcoming quarter such that the first feeder fund making a tender offer in that quarter would be able to notify its shareholders of the repurchase offer amount no less than twenty-one days before the repurchase request deadline for that tender offer.

10. If Eaton Vance creates additional feeder funds, such funds would be assigned a tender offer schedule corresponding with the tender offer schedule for one of the three existing feeder funds. Each new feeder fund would be assigned a tender offer schedule so as to most effectively balance the size of the Portfolio's monthly tender offers. In all events, there would remain three dates in each quarter (one in each month of the quarter) on which the Portfolio would make tender offers.

11. Each feeder fund would make a tender offer to all of its shareholders during the month in which the Portfolio makes a tender offer to it, using the cash obtained from interests purchased by the Portfolio to purchase shares tendered by its shareholders. All shareholders in a particular feeder fund would receive a tender offer at the same time, and under the same terms, as all of the other shareholders in that feeder fund.

12. Consistent with rule 23c–3(b)(5), if shareholders in a feeder fund tendered more than the repurchase offer amount, the feeder fund could repurchase shares beyond the repurchase offer amount. To obtain the cash necessary for the increased repurchase, the feeder fund could request that the Portfolio agree to repurchase up to an additional two percent of the outstanding interests in the Portfolio. To ensure equal treatment of the feeder funds, if the Portfolio agreed to purchase a certain percentage of additional interests from one feeder fund, it would agree to maintain sufficient liquid assets to purchase an equal percentage of additional interests from any other feeder fund making such a request during the succeeding two tender offers. If a repurchase offer were oversubscribed, the Portfolio and/or feeder funds would repurchase the tendered interests or shares on a *pro rata* basis.

13. Under applicants' master-feeder structure, responsibility for each requirement of rule 23c–3 would be allocated to the Portfolio, the feeder funds, or both, as appropriate. Liquidity and portfolio monitoring functions would be performed at the master fund level. The Portfolio's board of trustees would, pursuant to rule 23c–3(b)(10)(iii), adopt procedures reasonably designed to ensure that the Portfolio has liquid assets sufficient to comply with its fundamental policy to make repurchase offers to the feeder funds and satisfy the liquidity requirements of the rule. The boards of the feeder funds would oversee the Portfolio's board's administration of rule 23c–3's liquidity requirements.

14. Notification and filing requirements would be performed at the feeder fund level. The feeder funds would provide notice to their shareholders about upcoming repurchase offers and suspensions or postponements of repurchase offers in accordance with rule 23c–3(b)(4), and would file such notices with the SEC as required by the rule.[5] The feeder funds would comply with the requirements of rule 23c–3(b)(11) related to advertisements and sales literature. Because the Portfolio does not issue

[2] To make tender offers while engaging in a continuous offering of its shares under rule 415 under the Securities Act of 1933 (''Securities Act''), each Fund received an exemption from rule 10b–6 under the Securities Exchange Act of 1934 (''Exchange Act'') that prohibited participants in a distribution of securities from contemporaneously buying securities of the same class being distributed. *See* Eaton Vance Prime Rate Reserves (pub. avail. July 20, 1989); EV Classic Senior Floating-Rate Fund (pub. avail. Apr. 13, 1995). On March 4, 1997, the SEC adopted Regulation M, which, among other things, replaces rule 10b–6. If the requested relief is granted, applicants will rely on the exception for interval funds provided by rule 102 of Regulation M.

[3] Neither the Portfolio nor either of the Funds imposes distribution fees similar to those charged by open-end investment companies under rule 12b–1 under the Act.

[4] The Funds offer the exchange option pursuant to exemptions from the best price provisions of rule 13e–4(f)(8)(ii) under the Exchange Act. *See* Eaton Vance Prime Rate Reserves (pub. avail. Jan. 15, 1993); EV Classic Senior Floating-Rate Fund (pub. avail. Apr. 13, 1995). The Funds expect to continue offering an exchange option if the requested relief is granted, although they will no longer rely on these exemptions. Rather, they intend to rely on the exemption from rule 13e–4 provided for interval funds.

[5] Applicants submit that no purpose would be served by requiring the Portfolio to duplicate the feeder funds' notice to public shareholders regarding upcoming repurchase offers. Applicants state that the Portfolio would, however, provide notice to the feeder funds regarding the repurchase offer amount sufficiently in advance of tender offers by the feeder funds to allow the feeder funds to comply with rule 23c–3(b)(4)'s shareholder notice requirements.

shares to the public, rule 23c–3(b)(11) does not apply to the Portfolio.

15. Both the Portfolio and the feeder funds would comply with the majority of the requirements of rule 23c–3, including the rule's requirements related to pricing, adoption of fundamental policy to make periodic repurchase offers, suspension of purchase offers, repurchase of more than repurchase amount, withdrawal of repurchase requests, composition of board of trustees, senior securities, and debt obligations.

Applicants' Legal Analysis

1. Applicants request an order pursuant to sections 6(c) and 23(c) of the Act exempting them from certain provisions of rule 23c–3 under the Act to the extent necessary to: (a) Permit the Portfolio to make rotating, monthly tender offers to one feeder fund at a time; and (b) permit the Funds to impose EWCs.

2. Section 23(c) provides in relevant part that no registered closed-end investment company shall purchase any securities of any class of which it is the issue except: (a) On a securities exchange or other open market; (b) purchase to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the SEC may permit by rules and regulations or orders for the protection of investors. The Funds currently repurchase their shares pursuant to section 23(c)(2).

3. Rule 23c–3 permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value to shareholders at periodic intervals pursuant to a fundamental policy of the investment company. An interval fund may not suspend or postpone a repurchase offer except by vote of the fund's directors/trustees, and then only under limited circumstances.

4. Applicants believe that conversion to interval fund status would benefit shareholders for several reasons. First, each interval fund would be required to adopt as a fundamental policy a commitment to its shareholders to make periodic repurchase offers. Currently, neither the Funds nor the Portfolio have adopted such policies. Second, applicants believe that shareholders would benefit from cost savings to the Funds created by exemptions from tender offer rules under the Exchange Act for periodic tender offers made pursuant to rule 23c–3. Applicants also believe that the Funds would benefit from rule 486 under the Securities Act, which permits certain post-effective registration statements filed by interval funds to become effective immediately.

5. Under rule 23c–3(b), interval funds are required to make repurchases from their shareholders ''at periodic intervals, pursuant to repurchase offers made to all holders of the stock.'' ''Periodic interval'' is defined in rule 23c–3(a)(1) as an interval of three, six, or twelve months. Applicants request relief from the requirements of rule 23c–3(b) to permit the Portfolio to make quarterly tender offers on a rotating basis to one of the three feeder funds during each month within a quarter, with each of the feeder funds receiving a tender offer once each quarter. Applicants request relief to the extent that such rotating tender offers may be deemed inconsistent with rule 23c–3(b)'s requirements that: (a) Repurchase offers made by interval funds be made to all holders of the fund's shares; and (b) repurchase offers be made at intervals of three, six, or twelve months.

6. Applicants believe that the use of staggered tender offers would permit the Portfolio to satisfy the liquidity requirements of rule 23c–3 while holding liquid assets that constitute a lower percentage of the Portfolio's total assets than would be required for a tender offer to all feeder funds at once. Applicants argue that, by tendering to the feeder funds on a cyclical basis, rather than all at once, the Portfolio would realize substantial cost savings. Applicants also believe that the staggered tender offers may enable the Portfolio to make larger tender offers to the Funds, thereby enabling the Funds to make larger tender offers to their shareholders.

7. Rule 23c–3(b) requires that periodic repurchase offers be made ''to all holders of the stock.'' Separate, monthly tender offers by the Portfolio to each feeder fund could be construed to be inconsistent with this requirement because, in any given month, the Portfolio would make a tender offer to one, rather than all, feeder funds. Applicants believe, however, that staggered tender offers would not implicate the abusive practices to which the ''all holders'' requirement is addressed. Applicants cite the adopting release for rule 23c–3, which provides that the all holders requirement ''is intended to protect against unfair discrimination.'' [6] According to applicants, rule 23c–3's all holders requirement is substantially similar to the all holder requirement in section 23(c)(2). Applicants argue that the legislative purpose of that provision was to ''insure fair treatment of all security holders'' in connection with tender offers by investment companies.[7] Applicants submit that all feeder funds (and all shareholders of the feeder funds) would be treated alike in that they would receive a quarterly tender offer on the same terms, *i.e.*, at net asset value. Applicants believe that the fact that one feeder fund would receive a tender in a month different from another feeder fund within the same quarter is not the unfair discrimination at which the all holders requirement is directed.

8. If the Funds and the Portfolio became interval funds, they could postpone or suspend a tender offer only under one of the extraordinary circumstances set forth in rule 23c–3(b)(3), and then only pursuant to a majority vote of the board of trustees. Applicants state that this requirement would preclude the Portfolio's board from unfairly discriminating among the feeder funds by making a tender offer to less than all of the funds in a given quarter.

9. Because rule 23c–3(b)(1) would require the Portfolio to purchase interests tendered at the Portfolio's net asset value as of the repurchase pricing date, applicants believe that there would not be any discrimination in the method by which the Portfolio calculates the price paid to the feeder funds for the interests tendered. In addition, applicants argue that, because the Portfolio invests in senior secured loan interests that are unlikely to materially fluctuate in value, the net asset value paid to one feeder fund would not vary substantially from that paid to another feeder.

10. The Portfolio's monthly tenders may be construed to be prohibited by rule 23c–3(b)'s requirement that repurchase offers be made at periodic intervals, as defined in rule 23c–3(a)(1). Applicants state that, according to the adopting release for rule 23c–3, shorter intervals were not considered compatible with the notification requirements of the rule.[8] Applicants believe that the concern was that a fund could be forced to notify shareholders of the repurchase offer amount for an upcoming tender offer before knowing the amount of shares tendered in the prior tender offer. This would cause a fund to commit to a repurchase amount for the next tender offer and possibly incur an obligation to maintain a high

[6] Investment Company Act Release No. 19399, Section II.A.1.b.2 (Apr. 7, 1993).

[7] S. Rep. No. 1775, 76th Cong., 3d Sess. (1940) at 16; H.R. Rep. No. 2639, 76th Cong., 3d Sess. (1940) at 21.

[8] Investment Company Act Release No. 19399, Section II.A.4.

level of liquid assets due to the rule's liquidity requirements, while unaware of the number of shares tendered in the current repurchase offer and the resulting decrease in liquid assets.

11. Applicants state that, because the Portfolio would determine the repurchase offer amount at the beginning of each quarter, information about the number of shares tendered in the previous offer is not material. In addition, because staggered tender offers would permit the Portfolio to maintain fewer liquid assets than it would otherwise be required to maintain, applicants believe that maintaining liquid assets sufficient for two tender offers in a quarter would not unduly burden the Portfolio.

12. Rule 23c–3(b)(1) provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is reasonably intended to compensate the fund for expenses directly related to the repurchase. Applicants request relief from this provision to the extent that it would prohibit the imposition of an EWC on tendered shares that have been held for less than a specified period.

13. Applicants note that, in the release adopting rule 23c–3, the SEC stated that ''consideration [regarding the use of contingent deferred sales loads by closed-end interval funds] may be appropriate after the [SEC] considers whether to adopt proposed rule 6c–10.'' Rule 6c–10 was adopted on February 23, 1995,[9] and applicants have agreed as a condition to any relief granted that they will comply with rule 6c–10 under the Act as if such rule were applicable to them. The Funds also will comply with the NASD Conduct Rule's limits on service fees.

14. Applicants believe that EWCs may be necessary for its distributor to recover distribution costs from shareholders who redeem early. In addition, EWCs may create a disincentive for shareholders to engage in frequent trading, which applicants believe imposes costs on shareholders.

15. Section 6(c) provides that the SEC may exempt any person, security, or transaction from my provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. The Portfolio will offer to repurchase an identical percentage of the interests held by each feeder fund during each quarter.

2. The determination of the percentage in condition 1 will be made by the Portfolio's board in time for the first feeder fund to make a tender offer in the upcoming quarter to notify its shareholders of the repurchase offer amount no less than 21 days before the repurchase request deadline for that tender offer.

3. If the Portfolio agrees to purchase from a feeder fund a percentage of shares in addition to the repurchase offer amount pursuant to rule 23c–3(b)(5), it will agree to maintain liquid assets sufficient to repurchase the same percentage of additional shares from all feeder funds requesting the purchase of additional shares during the succeeding two tender offers.

4. Any feeder fund imposing an EWC will comply with rule 6c–10 under the Act as if such rule were applicable. Any feeder fund imposing a service fee will comply with the National Association of Securities Dealers Conduct Rule 2830(d) as if such rule were applicable.

5. Any fund operating under relief granted through the application will maintain an investment policy that requires, under normal conditions, that at least 65 percent of the value of its total assets will be invested in senior secured floating-rate loan interests.

6. The boards of the feeder funds and the Portfolio will review annually the repurchase offer procedures set forth in the application to ensure that no feeder fund is being disadvantaged as a result of such procedures.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13694 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

[9] Investment Company Act Release No. 20916 (Feb. 23, 1995). Rule 6c–10 permits open-end funds to charge contingent deferred sales loads, subject to certain requirements for calculating those changes and a uniform treatment requirement.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22669; 812–10410]

Masters' Select Investment Trust et al.; Notice of Application

May 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Masters' Select Investment Trust (the ''Trust''), each open-end management investment company advised by, or in the future advised by Litman/Gregory Fund Advisors, LLC (''Litman/Gregory'') (collectively with the Trust, the ''Funds''), and Litman/Gregory.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from section 15(a) and rule 18f–2 thereunder, and from certain disclosure requirements set forth in item 22 of Schedule 14A under the Securities Exchange Act of 1934 (the ''Exchange Act''); items 2, 5(b)(iii), and 16(a)(iii) of Form N–1A; item 3 of Form N–14; item 48 of Form N–SAR; and sections 6–07(2)(a), (b), and (c) of Regulation S–X.

SUMMARY OF APPLICATION: Applicants seek an order permitting Litman/Gregory, as investment adviser to certain portfolios of the Funds, to enter into and modify sub-advisory contracts without obtaining shareholder approval, and permitting the Funds to disclose only the aggregate sub-advisory fee for each portfolio in their prospectuses and other reports.

FILING DATES: The application was filed on October 18, 1996, and amended on January 29, 1997, and March 19, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 12, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 4 Orinda Way, Suite 230–D, Orinda, CA 94563.

FOR FURTHER INFORMATION CONTACT: Brian T. Houihan, Senior Counsel, at (202) 942–0526, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the

application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a registered open-end management investment company organized as a Delaware business trust. The Trust currently consists of one investment portfolio, The Masters Select Equity Fund (the ''Equity Portfolio''). Additional portfolios may be formed in the future with different investment objectives and policies (collectively with the Equity Portfolio, the ''Portfolios'').

2. Litman/Gregory, a registered investment adviser, acts as the investment adviser to the Equity Portfolio and is expected to act as investment adviser to any future Portfolios of the Trust and Portfolios of other existing and future Funds. Litman/Gregory will operate the Portfolios in a manner substantially different from that of conventional investment companies. Litman/Gregory has developed an investment philosophy for the Equity Portfolio that applicants believe capitalizes on Litman/Gregory's extensive experience evaluating investment advisory firms using a specified set of criteria. Litman/Gregory's investment strategy for the Equity Portfolio is based, in part, on its belief that it is possible to identify investment managers who will deliver superior performance relative to their peer group.

3. In each instance in which Litman/Gregory acts or will act as investment adviser to a Portfolio, the Portfolio may have one or more external sub-advisers (the ''Investment Managers'') pursuant to separate sub-advisory agreements (''Management Agreements''). The Equity Portfolio has six Investment Managers. Litman/Gregory's investment strategy for the Equity Portfolio is to allocate assets to Investment Managers who, based on Litman/Gregory's research, represent complementary style groups. Applicants anticipate that Litman/Gregory may apply a similar strategy to future Portfolios.

4. As investment adviser, Litman/Gregory has overall responsibility for assets under management, allocates assets among Investment Managers, monitors and evaluates the performance of the Investment Managers, and recommends selection of Investment Managers to the Trust's board of trustees. Each Investment Manager exercises investment discretion over or makes investment recommendations with respect to a portion of the assets of the Portfolio. In circumstances where the Investment Manager makes recommendations, but does not exercise investment discretion, Litman/Gregory will be responsible for authorizing portfolio transactions based on such recommendations.

5. As investment adviser, Litman/Gregory receives a fee from the Equity Portfolio computed as a percentage of the portfolio's net assets. Litman/Gregory pays the Investment Managers out of this fee. The fee paid to each Investment Manager is separately negotiated and may differ from one Investment Manager to another.

6. Applicants request an exemption from section 15(a) and rule 18f–2 to permit the Funds to enter into and modify Management Agreements without obtaining shareholder approval. Applicants also request an exemption from the various provisions described below that may require them to disclose the fees paid by Litman/Gregory to the Investment Managers.

7. From N–1A is the registration statement used by open-end investment companies. Items 2, 5(b)(iii), and 16(a)(iii) of Form N–1A require disclosure of the method and amount of the investment adviser's compensation.

8. From N–14 is the registration form for business combinations involving open-end investment companies. Item 3 of Form N–14 requires the inclusion of a ''table showing the current fees for the registrant and the company being acquired and pro forma fees, if different, for the registrant after giving effect to the transaction.''

9. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Exchange Act. Item 22(a)(3)(iv) of Schedule 14A requires a proxy statement for a shareholder meeting at which a new fee will be established or an existing fee increased to include a table of the current and pro forma fees. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9), taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of ''the terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

10. Form N–SAR is the semi-annual report filed with the SEC by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Investment Managers.

11. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the SEC. Sections 6–07(2) (a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

12. With respect to investment advisory fees, applicants propose to disclose (both as a dollar amount and as a percentage of a Portfolio's net assets) only the: (a) Total advisory fee charged by Litman/Gregory with respect to each Portfolio; (b) aggregate fees paid by Litman/Gregory to all Investment Managers managing assets of each Portfolio; and (c) net advisory fee retained by Litman/Gregory with respect to each Portfolio after Litman/Gregory pays all Investment Managers managing assets of the Portfolio (collectively, the ''Aggregate Fee''). For any Portfolio that employs an Investment Manager that is an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Portfolio or Litman/Gregory, other than by reason of serving as an Investment Manager of the Portfolio (an ''Affiliated Manager''), the Portfolio will provide separate disclosure of any fees paid to such Affiliated Manger.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Rule 18f–2 provides that any investment advisory contract that is submitted to the shareholders of a series investment company under section 15(a) shall be deemed to be effectively acted upon with respect to any class or series of such company if a majority of the outstanding voting securities of such class or series vote for the approval of such matter.

2. Applicants believe that the requested exemption from shareholder voting requirements should be granted because Litman/Gregory will operate the Portfolios in a manner so different from that of conventional investment companies that shareholder approval would not serve any meaningful purpose. Applicants argue that, by investing in a Portfolio, shareholders, in effect, will hire Litman/Gregory to manage the Portfolio's assets by using external portfolio managers (*i.e.*, advisory firms not affiliated with

Litman/Gregory), in combination with Litman/Gregory's proprietary investment adviser selection and monitoring process, rather than by using Litman/Greogy's own employees to manage the Portfolio assets. Thus, applicants contend that shareholders will expect Litman/Gregory, under the overall authority of the board of trustees, to take responsibility for overseeing Investment Managers and recommending their hiring, termination, and replacement. Applicants note that each Portfolio's investment advisory agreement with Litman/Gregory will be subject to shareholder approval under section 15(a). Finally, applicants state that the trustees of each Fund, including each trustee who is not an ''interested person'' of the Fund as defined in section 2(a)(19) of the Act (''Independent Trustees''), will consider and approve each Management Agreement (including the specific sub-advisory fee arrangements) in the manner required by the Act and the rules thereunder.

3. Applicants also believe that the requested exemption will benefit shareholders by enabling the Portfolios to operate in a less costly and more efficient manner. Applicants argue that the requested relief will reduce expenses because the Portfolios will not have to prepare and solicit proxies each time a Management Agreement is entered into or modified. Applicants believe that the Portfolios will be able to operate more efficiently by permitting each Portfolio to hire, terminate, and replace Investment Managers according to the judgment of its board and Litman/Gregory. Applicants also argue that the requested relief will relieve shareholders of the very responsibility that they are paying Litman/Gregory to assume: the selection, termination, and replacement of Investment Managers.

4. Applicants also believe that disclosure of the fees that Litman/Gregory pays to each Investment Manager would not serve any meaningful purpose since investors will pay Litman/Gregory to retain and compensate the Investment Managers. Applicants state that, while investment advisers typically are willing to negotiate fees lower than those posted in their fee schedules, particularly with large institutional clients, they are reluctant to do so where the negotiated fees are disclosed to other prospective and existing customers. Thus, applicants argue that the requested relief will facilitate lower overall investment advisory fees because Investment Managers may accept lower advisory fees from Litman/Gregory, the benefits of which will be passed on to shareholders in the form of a lower Investment Manager fee. Applicants believe that disclosure of each sub-advisory fee arrangement would be complex and, given the varying asset allocation to each Investment Manager, would not necessarily provide any meaningful information to a shareholder. Applicants claim that, by limiting disclosure to the Aggregate Fee, the requested relief will enable shareholders to understand more clearly the relevant cost/expense structure of each Portfolio.

5. Section 6(c) authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that this standard has been satisfied for the reasons discussed above.

Applicant's Conditions

Applicants agree that the following conditions may be imposed in any order of the SEC granting the requested relief:

1. Before a Portfolio may rely on the order requested in the application, the operation of the Portfolio in the manner described in the application will be approved by a majority of each Portfolio's outstanding voting securities, as defined in the Act, or, in the case of a new Portfolio whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole shareholder before offering shares of the Portfolio to the public.

2. The prospectus for each Portfolio will disclose the existence, substance, and effect of the order. In addition, each Portfolio will hold itself out to the public as employing the management structure described in the application. The prospectus and any sales materials or other shareholder communications relating to a Portfolio (collectively, ''Marketing Communications'') will prominently disclose that Litman/Gregory has ultimate responsibility for the investment performance of the Portfolio due to its responsibility to oversee Investment Managers and recommend their hiring, termination, and replacement.

3. Within 60 days of the hiring of any new Investment Manager or the implementation of any proposed material change in a Management Agreement, Litman/Gregory will furnish shareholders all information about the new Investment Manager or Management Agreement that would be included in a proxy statement, except as modified by the order with respect to the disclosure of fees paid to the Investment Managers. Such information will include disclosure of the Aggregate Fee and any proposed material change in the Portfolio's Management Agreement with such new Investment Manager. To meet this obligation, Litman/Gregory will provide shareholder with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order with respect to the disclosure of specific fees paid to the Investment Managers.

4. Litman/Gregory will not enter into a Management agreement with any Affiliated Manager without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

5. At all times, a majority of each Fund's board of trustees will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

6. When an Investment Manager change is proposed for a Portfolio with an Affiliated Manager, the Fund's trustees, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Fund's board minutes, that such change is in the best interests of the Portfolio and its shareholders and does not involve a conflict of interest from which Litman/Gregory or the Affiliated Manager derives an inappropriate advantage.

7. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Independent Trustees of each Fund. The selection of independent counsel will be placed within the discretion of the Independent Trustees.

8. Litman/Gregory will provide each Fund's board of trustees no less frequently than quarterly with information about Litman/Gregory's profitability for each Portfolio relying on the relief requested in the application. The information will reflect the impact on profitability of the hiring or termination of Investment Managers during the quarter.

9. Whenever an Investment Manager to a particular Portfolio is hired or terminated, Litman/Gregory will provide that Fund's board of trustees with information showing the expected impact on Litman/Gregory's profitability.

10. Litman/Gregory will provide general management and administrative services to the Portfolio and, subject to board review and approval, will (a) set the Portfolio's overall investment strategies, (b) recommend Investment Managers, (c) allocate and, when appropriate, reallocate the Portfolio's assets among Investment Managers, (d) monitor and evaluate Investment Manager performance, and (e) oversee Investment Manager compliance with the Portfolio's investment objective, policies, and restrictions.

11. No director, trustee, or officer of the Funds or Litman/Gregory will own directly or indirectly (other than through a pooled investment vehicle over which such person does not have control) any interest in an Investment Manager except for (a) ownership of interests in Litman/Gregory or any entity that controls, is controlled by or is under common control with Litman/Gregory; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either an Investment Manager or an entity that controls, is controlled by or is under common control with an Investment Manager.

12. Each Portfolio will disclose in its registration statement the respective Aggregate Fee.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13695 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22666; 812–10422]

Safeguard Scientifics, Inc.; Notice of Application

May 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Safeguard Scientifics, Inc.

RELEVANT ACT SECTION: Declaration of the Commission sought under section 2(a)(9).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it controls Cambridge Technology Partners, Inc. (''Cambridge'') and USDATA Corporation (''USDATA''), notwithstanding that applicant owns less than 25% of the voting securities of each company.

FILING DATES: The application was filed on November 12, 1996 and amended on May 16, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 13, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSED: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicant, 800 Safeguard Building, 435 Devon Park Drive, Wayne, Pennsylvania 19087.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Mary Kay French, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Pennsylvania corporation, is engaged primarily in the business of identifying, acquiring interests in, and developing ''partnership companies,'' most of which are engaged in information technology businesses. Applicant is not required to register as an investment company under the Act by virtue of rule 3a–1 under the Act.[1] Applicant's strategy is to invest in companies which are capable of being market leaders in segments of the information technology industry and which can benefit from applicant's business development, management support, financing, and market knowledge. Applicant generally invests in companies in which it can purchase a large enough stake to enable it to have substantial influence over the management and polices of the company.

2. Applicant is the largest single shareholder of Cambridge and USDATA, owning 17% of the voting stock of Cambridge and 20% of the voting stock of USDATA. Cambridge provides technical expertise to organizations with large scale information processing needs. USDATA is an international supplier of real-time software applications development tools and related integration services. Five of the nine members of the Cambridge board and five of the eight members of the USDATA board are associated with applicant.

Applicant's Legal Analysis

1. Applicant requests an order under section 2(a)(9) declaring that it controls Cambridge and USDATA even though Safeguard owns less than 25% of the voting securities of Cambridge and USDATA.

2. Section 2(a)(9) defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that owners of 25% or less of a company's voting securities do not control such company. The presumption may be rebutted by evidence of control.

3. Applicant argues that its controlling influence over Cambridge and USDATA is demonstrated by the following:

a. Applicant is the largest single shareholder of Cambridge and USDATA. Applicant states that the only other significant shareholders of Cambridge are two registered mutual funds, each of which own approximately 10% of Cambridge. Two venture funds affiliated with applicant own 15% each of USDATA. Applicant submits that it has significant links with both venture funds and that the funds have never acted together in opposition to applicant's control of USDATA and it is unlikely that they would do so in the future. Further, applicant states that the only other significant shareholder of USDATA is its founder and former CEO, who currently owns 13% of the company's stock.

b. Applicant asserts that it has been involved in managing Cambridge and USDATA for years and has developed

[1] Rule 3a–1 provides that an issuer meeting the statutory definition of an investment company is not an investment company if: (a) not more than 45% of the value of its total assets (exclusive of government securities and cash items) consists of securities other than government securities, securities issued by employee securities companies, securities of certain majority-owned subsidiaries, and securities issued by companies under the primary control of the issuer that are not investment companies; and (b) no more than 45% of its income after taxes (over the last four fiscal quarters combined) is relieved from such securities. Applicant does not seek, and any order would not grant, any relief with respect to applicant's reliance on rule 3a–1.

and restructured both companies. For instance, applicant helped USDATA go public in 1995 and also helped Cambridge to complete a secondary public offering. Moreover, applicant submits that it is committed to holding significant equity stakes in both companies and to participating in their strategic management over the long-term, so long as they fit within applicant's overall strategy.

c. Applicant states that it has developed numerous processes for managing its own business which it shares with its partnership companies, including Cambridge and USDATA. In addition, applicant states that it encourages Cambridge and USDATA to collaborate and to do business with each other and with other of applicant's partnership companies. Cambridge and USDATA, along with other partnership companies, assist each other and applicant in identifying or reviewing potential candidates for acquisitions or investment, and recruiting new managers and directors.

d. Applicant has chosen to style its relationship with each company as a ''partnership'' to reflect the realities of the entrepreneurial and rapidly changing information services industry. Applicant believes that traditional corporate structures would inhibit the flexibility and creativity necessary for growth and that giving entrepreneurs the power to create their own wealth by increasing the value of their equity in their company (without being affected by the results of other divisions or subsidiaries of the ''parent'' company) maximizes the entrepreneurs' incentive to fuel innovation and growth. Applicant states, however, that despite its emphasis on ''partnership'' it is willing and able to intervene directly and effectively in the management of Cambridge and USDATA when either company fails to meet its expectations. For example, in March 1997, applicant replaced the outgoing CEO of USDATA with one of its officers as acting CEO and will be instrumental in the recruitment and selection of the permanent CEO. Applicant argues that this management change evidences its ability to assert its power to control the direction and operation of USDATA.

e. Applicant's executives and staff provide assistance to both companies in identifying and introducing potential new clients. Applicant states that it assists USDATA in structuring and negotiating business alliances, financial planning and reporting, and tax planning. In addition, applicant states that it has helped Cambridge find and secure clients, arranged for a new headquarters building, and helped Cambridge recruit a new CEO, chief administrative officer, chief technology officer, and six directors. Applicant submits that it supports the managers at both Cambridge and USDATA with ongoing programs and practical business and administrative guidance intended to promote the development of each company. Further, applicant asserts that managers of the companies have the freedom to use applicant's resources in the manner and to the extent that suits their own style.

f. In addition, applicant states that it maintains control over Cambridge and USDATA through a series of cross-directorships involving individuals who are associated with applicant through their service as current and former directors and officers of applicant or its other partnership companies. Applicant states that these board members help each company define its general business strategy and actively participate in adopting operating plans and budgets. These board members also participate in key corporate decisions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13693 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38654; File No. SR–CBOE–97–20]

Self-Regulatory Organizations; The Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees Charged for Participation in the NYSE Options Program

May 19, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 25, 1997, the Chicago Board Options Exchange (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II, and III below, which items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to impose booth and telecommunications fees for participation in the New York Stock Exchange (''NYSE'') Options Program. CBOE proposes to impose these fees from the start of trading of those options on CBOE's alternate trading floor (''Green Badge Floor'') on April 28, 1997.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to impose Exchange fees for booth and telecommunications costs which are different than the fees set forth in CBOE's standards fee schedule. The fees for the NYSE Options Program will be imposed from the start of trading of these options on the CBOE on April 28, 1997.

The proposed fees are: (1) For non-Options Clearing Corporation member firms, the Green Badge space flat fee of $500 per month per booth with no variable fee; (2) for Options Clearing Corporation member firms, a flat fee of or $150 per month per booth with no variable fee;[3] for initial installation only, a fee of $250 per Exchange phone;

[2] On April 23, 1997, the Commission approved proposed rule changes regarding the transfer of the NYSE Options business to CBOE. *See* Securities Exchange Act Release No. 38541 (April 23, 1997), 62 FR 23516 (order approving File No. SR–CBOE–97–14); and 38542 (April 23, 1997), 62 FR 23521 (order approving File No. SR–NYSE–97–05).

[3] Although CBOE's proposed rule change indicates that the $150 flat fee applies to CBOE member firms, CBOE has clarified that the fee applies to Options Clearing Corporation members participating in the NYSE Options Program. Telephone conversation between Timothy Thompson, Senior Attorney, CBOE and Margaret R. Blake, Division of Market Regulation, Commission (May 13, 1997).

and (4) for initial installation only, a fee of $50 per single line set.

CBOE proposes the imposition of these fees pursuant to CBOE Rule 2.22. The Exchange will distribute a circular to its members to notify them of the imposition of these Exchange fees.[4]

The Exchange is imposing these fees as a result of the transfer of the NYSE Options Program. The fees are less than comparable fees charged on the CBOE main floor because of the reduced value of the Green Badge floor space relative to the value of booth space on the CBOE main floor. The telecommunications fees are reduced for initial installation only with fees reverting back to the standard schedule after the relocation is completed. The purpose for the reduced telecommunications fees is due to the Green Badge Floor having been newly constructed, causing the phone installation costs to be substantially less than adding a phone to a pre-existing location.

CBOE believes the proposed rule change is consistent with its requirements under the Act, specifically with Section 6(b)(4),[5] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change established or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[6] of the Act and Rule 19b–4(e)(2)[7] thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–CBOE–97–20 and should be submitted by June 17, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13696 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38660; File No. SR–MBSCC–97–04]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modification of Schedule of Charges

May 20, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on April 3, 1997, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies MBSCC's schedule of charges to classify certain charges as fees rather than penalties.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify MBSCC's schedule of charges to classify certain charges as fees rather than penalties. Currently, MBSCC maintains a schedule of charges for dealer accounts, a schedule of changes for broker accounts, and a schedule of penalty fees. MBSCC believes it is more appropriate that the charges set forth on the schedule of penalty fees appear on the schedule of charges as ordinary charges because they are intended to encourage participants to take alternative actions, such as earlier submission of data, rather than penalize participants. Therefore, the entire schedule of penalty fees will be deleted, and those charges will now appear on the MBSCC schedule of charges.

MBSCC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(D) of the Act[3] and the rules and regulations thereunder because it provides for the equitable allocation of reasonable dues, fees, and other charges among MBSCC's participants.

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[4] Prior to the transfer of NYSE Options business, CBOE notified NYSE Options firms of the telecommunication and booth fees. Memorandum from Ed Joyce, CBOE, to relocating NYSE Options firms (March 31, 1997).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(e)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by MBSCC.

[3] 15 U.S.C. 78q–1(b)(3)(D).

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has became effective pursuant to Section 19(b)(3)(A)(ii)[4] of the Act and pursuant to Rule 19b–4(e)(2)[5] promulgated thereunder in that the proposed rule change establishes or changes a due, fee, or other charge imposed by MBSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and coping at the principal office of MBSCC. All submissions should refer to File No. SR–MBSCC–97–04 and should be submitted by June 17, 1997.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(e)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13804 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38659; File No. SR–OCC–96–15]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Revisions to the Standards for Letters of Credit Deposited as Margin

May 20, 1997.

On November 4, 1996, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–96–15) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on February 21, 1997.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change makes permanent the Commission's previous temporary approvals[3] of OCC's modifications to its Rule 604, which sets forth the standards for letters of credit deposited with OCC as a form of margin. First, to conform to the Uniform Commercial Code and to avoid any ambiguity as to the latest time for honoring demands upon letters of credit, letters of credit must state expressly that payment must be made prior to the close of business on the third banking day following demand. Second, letters of credit must be irrevocable. Third letters of credit must expire on a quarterly basis. Fourth, OCC included language in its Rule 604 to make explicit OCC's authority to draw upon letters of credit at any time, whether or not the clearing member that deposited the letter of credit has been suspended or is in default, if OCC determines that such draws are advisable to protect OCC, other clearing members, or the general public.

II. Discussion

Section 17A(b)(3)(F) of the Act[4] requires the rules of a clearing agency to be designated to assure the safeguarding of securities and funds in its custody or control or for which it is responsible. The Commission believes the proposed rule change is consistent with OCC's obligation under the Act because the modified standards for letters of credit will enable OCC to draw upon a letter of credit when the OCC determines that a draw is advisable to protect OCC, the clearing members, or the general public. This ability will allow OCC as needed to increase the liquidity of its margin deposits by enabling OCC to substitute cash collateral for a clearing member's letter of credit. The rule change also will increase the reliability of the letters of credit because an issuer will no longer be able to revoke a letter of credit when the clearing member is experiencing financial difficulty and poses the greatest credit risk.

In addition, requiring that the letters of credit expire quarterly rather than annually will result in the issuers conducting more frequent credit reviews of the clearing members for whom the letters of credit are issued. More frequent credit reviews should facilitate the discovery of any adverse developments in a more timely manner. By increasing the liquidity and reliability of the letters of credit and the frequency of reviews of its members, OCC has increased its ability to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

Finally, when the Commission granted temporary approval to OCC's revisions to the standards for letters of

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38284 (February 13, 1997), 62 FR 8070.

[3] Securities Exchange Act Release Nos. 29641 (August 30, 1991), 56 FR 46027 [File No. SR–OCC–91–13] (order temporarily approving proposed rule change through February 28, 1992); 30424 (February 28, 1992), 57 FR 8160 [File No. SR–OCC–92–06] (order temporarily approving proposed rule change through May 31, 1992); 30763 (June 1, 1992), 57 FR 24284 [File No. SR–OCC–92–11] (order temporarily approving proposed rule change through August 31, 1992); 31126 (September 1, 1992), 57 FR 40925 [File No. SR–OCC–92–19] (order temporarily approving proposed rule change through December 31, 1992); 31614 (December 17, 1992), 57 FR 61142 [File No. SR–OCC–92–37] (order temporarily approving proposed rule change through June 30, 1993); 32532 (June 28, 1993), 58 FR 36232 [File No. SR–OCC–93–14] (order temporarily approving proposed rule change through June 30, 1994); 34206 (June 13, 1994), 59 FR 31661 [File No. SR–OCC–94–06] (order temporarily approving proposed rule change through June 30, 1995); 36138 (August 23, 1995), 60 FR 44926 [File No. SR–OCC–95–9] (order temporarily approving proposed rule change through June 28, 1996); and 37618 (August 29, 1996), 61 FR 46889 [File No. SR–OCC–96–07] (order temporarily approving proposed rule change through June 30, 1997).

[4] 15 U.S.C. 78q–1(b)(3)(F).

credit deposited as margin, the Commission stated that the temporary approval period would allow the Commission and other interested parties an opportunity to assess the effects these revised standards would have on letter of credit issuance and margin deposits at OCC.[5] The Commission initially granted temporary approval for the rule change on August 30, 1991. For that year, letters of credit deposited as margin constituted approximately $1.9 billion of OCC's total margin deposit of approximately $19.5 billion (9.7 percent of the total margin deposit).[6] As of December 31, 1996, the amount of letters of credit deposited as margin increased to approximately $2.5 billion of OCC's total margin deposits of approximately $18.3 billion (13.7 percent of the total margin deposits).[7] Therefore, it appears that the rule change has neither hindered the use of the letters of credit nor increased their use beyond a reasonable level.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–96–15) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13805 Filed 5–23–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before July 28, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, SW., Suite 5000, Washington, DC 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Application for Business Loan''.

Type of Request: Extension of a Currently Approved Collection.

Form No's.: 4I, 4Schedule A, 4L, 4EX, 4Short.

Description of Respondents: Applicants for an SBA Business Loan.

Annual Responses: 33,150.

Annual Burden: 656,038.

Comments: Send all comments regarding this information to Mike Dowd, Director, Office of Loan Programs, Financial Assistance, Small Business Administration, 409 3rd Street, SW., Suite 8300, Washington, DC 20416. Phone No.: 202–205–6570. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: May 20, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–13784 Filed 5–23–97; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for reinstatement. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 61 FR 68811–68812, December 30, 1996.

DATES: Comments must be submitted on or before June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Edward Kosek, NHTSA Information Collection Clearance Officer at (202) 366–2589.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

Title: Insurer Reporting Requirement for 49 CFR Part 544—Motor Vehicle Theft Law Enforcement Act of 1984.

OMB No.: 2127–0547.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Affected Public: Specific vehicle insurance companies, and rental/leasing companies (which have a fleet size of 50,000 or more and are not covered by theft insurance policies issued by motor vehicle insurers). Specific motor vehicle insurance companies and subject rental and leasing companies are listed in Appendices A, B, and C of Part 544.

Abstract: The Motor Vehicle Theft Law Enforcement Act of 1984 was amended by the Anti Car Theft Act (ACTA) of 1992 (Pub. L. 102–519) which mandated this information collection. One component of the comprehensive theft prevention package required the Secretary of Transportation (delegated to the NHSTA) to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. Section 615 of the ACTA requires insurance companies and rental/leasing companies to provide information to NHTSA on comprehensive insurance premiums which address motor vehicle theft.

Need: These reports are required to be submitted in a specified format as shown in Parts 544.5 and 544.6, giving requirements and contents of the report. The information will be used by NHTSA in exercising its statutory authority to help reduce comprehensive insurance premiums charged by insurers of motor vehicles due to motor vehicle thefts. The report will also show the rate of theft and recoveries of stolen vehicles that they insure by type and other categories. Without this information, the agency cannot adequately assess the effectiveness of the ACTA as directed by Congress.

Estimated Annual Burden: 197,390 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will

[5] *Supra* note 3.

[6] Conversation between Michael G. Vitek, OCC, and Jeffrey S. Mooney, Attorney, Commission, (May 15, 1997).

[7] OCC 1996 Annual Report, pg 22.

[8] 17 CFR 200.30–3(a)(12).

have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 20, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–13741 Filed 5–23–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Safety Performance Standards and Research and Development Programs Meetings

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of NHTSA industry meetings.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's vehicle regulatory program. In addition, NHTSA will hold a separate public meeting to describe and discuss specific research and development projects.

DATES: The Agency's regular, quarterly public meeting relating to its vehicle regulatory program will be held on June 18, 1997, beginning at 9:45 a.m. and ending at approximately 12:30 p.m. Questions relating to the vehicle regulatory program must be submitted in writing by May 30, 1997, to the address shown below. If sufficient time is available, questions received after May 30 may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the questions(s) to be answered. A consolidated list of the questions submitted by May 30, 1997, and the issues to be discussed, will be transmitted to interested persons by June 16, 1997, and will be available at the meeting. Also, the agency will hold a second public meeting June 19, devoted exclusively to a presentation of research and development programs. That meeting is described more fully in a separate announcement. The next NHTSA vehicle regulatory program meeting will take place on September 18, 1997 at the Tysons Westpark Hotel, 8401 Westpark Drive, in McLean, VA.

ADDRESSES: Questions for the June 18, NHTSA Technical Industry Meeting, relating to the agency's vehicle regulatory program, should be submitted to Delia Gage, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590, Fax Number 202–366–4329. The meeting will be held at the Hilton Suites Hotel, 8600 Wickham Road, Romulus, Michigan.

FOR FURTHER INFORMATION CONTACT: Delia Gage, (202) 366–1810.

SUPPLEMENTARY INFORMATION: NHTSA holds this regular, quarterly meeting to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory program. Questions on aspects of the agency's research and development activities that relate directly to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office. The purpose of this meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. Transcripts of these meetings will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4:00 p.m. We would appreciate the questions you send us to be organized by categories to help us to process the questions into agenda form more efficiently. Sample format as follows:

I. Rulemaking
  A. Crash avoidance
  B. Cashworthiness
  C. Other Rulemakings
II. Consumer Information
III. Miscellaneous

NHTSA will provide auxiliary aids to participants as necessary. Any person desiring assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, Brailled materials, or large print materials and/or a magnifying device), please contact Delia Gage on (202) 366–1810, by COB June 16, 1997.

Issued: May 19, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–13739 Filed 5–23–97; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–032; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1989 Chrysler Shadow Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1989 Chrysler Shadow passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1989 Chrysler Shadow manufactured for the Middle Eastern market that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 26, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation

into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1989 Chrysler Shadow passenger cars manufactured for the Middle Eastern market are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1989 Dodge Shadow that was manufactured for sale in the United States and certified by its manufacturer, Chrysler Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1989 Chrysler Shadow to the 1989 Dodge Shadow, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1989 Chrysler Shadow, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1989 Dodge Shadow, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1989 Chrysler Shadow is identical to the 1989 Dodge Shadow with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver from the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 208 *Occupant Crash Protection*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1989 Chrysler Shadow complies with the Bumper Standard found in 49 CFR Part 581 and the requirements for vehicle identification number plates found in 49 CFR Part 565.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) replacement of the speedometer with a unit calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model sealed headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lights; (c) installation of a U.S.-model high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 20, 1997.

Marilynne Jacobs,

Director Office of Vehicle Safety Compliance.

[FR Doc. 97–13740 Filed 5–23–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33397]

Illinois Central Railroad Company; Trackage Rights Exemption; The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company has agreed to grant overhead trackage rights to Illinois Central Railroad Company over trackage located between Broadway Street and Louisiana Street in Memphis, TN.

The transaction is expected to be consummated on May 20, 1997, the effective date of the exemption.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights*—BN, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33397, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: Anne E. Keating, General Solicitor, Illinois Central Railroad Company, 455 North Cityfront Plaza Drive, Chicago, IL 60611–5504.

Decided: May 19, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13807 Filed 5–23–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0365]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Revision

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery System (NCS) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to a request for disinterment from a national cemetery.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 28, 1997.

ADDRESSES: Submit written comments on the collection of information to Frances Willis, National Cemetery System (402D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0365'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Frances Willis at (202) 273–5189.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub.L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCS invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCS's functions, including whether the information will have practical utility; (2) the accuracy of NCS's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Request for Disinterment, VA Form 40–4970.

OMB Control Number: 2900–0365.

Type of Review: Revision of a currently approved collection.

Abstract: Interments made in national cemeteries are permanent and final. Disinterments will be permitted for cogent reasons, and then with prior written authorization only, usually by the Cemetery Director. Approval can be granted when all immediate family members of the decedent, including the person who initiated the interment, give their written consent. An order from a court of local jurisdiction can be accepted in lieu of submitting VA form 40–4970. The form is used to allow a person to request removal of remains from a national cemetery for interment at another location. The information is used for approving or disapproving the disinterment request.

Affected Public: Individuals or households.

Estimated Annual Burden: 33 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 197.

Dated: May 15, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–13707 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0112]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Reinstatement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to the release of personal liability to the Government for a VA-guaranteed mortgage.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 28, 1997.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0112'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–8310 or FAX (202) 275–4884.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub.L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Statement of Holder or Servicer of Veteran's Loan, Form Letter 26–559.

OMB Control Number: 2900–0112.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Veteran-borrowers may sell their home subject to the existing VA-guaranteed mortgage lien without the prior approval of the VA if the commitment for the loan was made prior to March 1, 1988. However, if they wish to be released from personal liability to the Government in the event of a subsequent default by a transferee, the VA must determine, pursuant to 38 U.S.C. § 3713(a), that: (1) the loan payments are current; (2) the transferee will assume the veteran's legal liabilities

in connection with the loan; and (3) the purchaser qualifies from a credit standpoint. Also, veteran-borrowers may sell their home to veteran-transferees in accordance with 38 U.S.C. § 3702(b)(2). However, eligible transferees must meet all the requirements of 38 U.S.C. § 3713(a) in addition to having sufficient available loan guaranty entitlement to replace the amount of entitlement used by the seller in obtaining the original loan.

In performing the credit underwriting functions associated with processing a veteran's request for release from liability and/or substitution of entitlement, loan specialists at VA field stations must collect and verify information from the current holder or servicer of the loan. Form Letter 26–559 collects information on the mortgage loan amount, payment terms, taxes, insurance and liens which are used to compute the total monthly mortgage cost to the borrower.

Affected Public: Business or other for-profit—Individuals or households.

Estimated Annual Burden: 2,500 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 15,000.

Dated: May 15, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–13708 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0113]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension.

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to the application to become a fee basis appraiser to appraise residential real estate and recommend value for loan purposes.

DATES: Comments must be submitted on or before July 28, 1997.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0113'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–8310 or FAX (202) 275–4884.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Application for Fee Personnel Designation, VA Form 26–6681.

OMB Control Number: 2900–0113.

Type of Review: Extension of a currently approved collection.

Abstract: The form solicits information on the fee personnel applicant's background and experience in the real estate valuation field. VA regional offices and centers use the information contained on the form to evaluate applicants' experience for the purpose of designating qualified individuals to serve on the fee roster for their stations. Qualifications are stated in 38 CFR 36.4339. Collection of this information is essential in evaluating the professional expertise of fee applicants.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,067 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,200.

Dated: May 15, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–13709 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0567]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery System (NCS) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to requests for additional or the reissue of memorial certificates.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 28, 1997.

ADDRESSES: Submit written comments on the collection of information to Frances Willis, National Cemetery System (402D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0567'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Frances Willis at (202) 273–5189.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCS invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCS's functions, including whether the information will have practical utility; (2) the accuracy of NCS's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: PMC (Presidential Memorial Certificate) Insert.

OMB Control Number: 2900–0567.

Type of Review: Extension of a currently approved collection.

Abstract: The PMC Program was initiated in March 1962 by President John F. Kennedy to honor the memory of honorably discharged, deceased veterans, and has been continued by all subsequent Presidents. A PMC is mailed to deceased veterans relatives and friends honoring their military service to our Nation. In most cases involving recent deaths, the local VA regional office originates the process without a request from the next-of-kin. With the automation of the program, the insert will accompany the issuance of the original certificate. The insert provides a convenient method for the recipients of the original PMC to request additional certificates and/or replacement or corrected certificates. The information will be used by the NCS to promptly reissue or provide additional certificates.

Affected Public: Individuals or households.

Estimated Annual Burden: 925 hours.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 27,740.

Dated: May 15, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–13710 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0091]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Revision

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to the collection of information from veterans during the medical care application process and when making funeral and burial arrangements.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 28, 1997.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (161A1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0091'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) way to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Numbers: Application for Medical Benefits, VA Form 10–10; Insurance Information, VA Form 10–10I; Financial Worksheet, VA Form 10–10F; and Funeral Arrangements, VA Form 10–2065.

OMB Control Number: 2900–0091.

Type of Review: Revision of a currently approved collection.

Abstract: The forms are used to collect information in connection with providing medical care benefits, obtaining health insurance information for third party billing purposes, obtaining income and asset information, and for the purposes of making funeral and burial arrangements for deceased veterans. The purpose of the collection of information is outlined below:

a. VA Form 10–10 is used to establish a system of records on veterans applying for medical benefits. The information is used to identify the veterans applying for medical care, establish initial eligibility for care, and to provide emergency contacts, employment information, military service data, and income screening for pharmacy co-payment.

b. VA Form 10–10F is used to collect financial information on veterans whose eligibility for VA health care benefits is based on income. Nonservice-connected veterans and noncompensable service-connected veterans rated 0% seeking care for their nonservice-connected conditions complete the form to establish their eligibility for cost-free health care, mileage reimbursement and prescription co-payment exemption benefits. Veterans with compensable service-connected disabilities rated 0, 10 or 20% may provide their income information to establish their eligibility for prescription co-payment exemption and mileage reimbursement. Veterans with service-connected disabilities rated 30 or 40% may provide their income information to determine their eligibility for prescription co-payment exemption.

c. VA Form 10–10I is used to collect health insurance information and to bill health insurance carries to recover the cost of medical care furnished to veterans for treatment of nonservice-connected conditions.

d. VA Form 10–2065 serves as an official record of the funeral director to which the person making funeral arrangements wishes the remains to be released. It is used as a control document when VA is requested to arrange for the transportation of the deceased from the place of death to the

place of burial, and/or when burial is requested in a National Cemetery.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,212,738 hours.

a. VA Form 10–10—2,175,000 hours.
b. VA Form 10–10F—454,667 hours.
c. VA Form 10–10I—580,000 hours.
d. VA Form 10–2065—3,071 hours.

Estimated Average Burden Per Respondent: 21 minutes.

a. VA Form 10–10—45 minutes.
b. VA Form 10–10F—20 minutes.
c. VA Form 10–10I—12 minutes.
d. VA Form 10–2064—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 7,198,850.

a. VA Form 10–10—2,900,000.
b. VA Form 10–10F—1,364,000.
c. VA Form 10–10I—2,900,000.
d. VA Form 10–2064—34,850.

Dated: May 15, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–13712 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0524]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Security and Law Enforcement, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Security and Law Enforcement, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before June 26, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0524.''

SUPPLEMENTARY INFORMATION:

Title and Form Number: VA Police Officer Pre-Employment Screening Checklist, VA Form 0120 (formerly VA Form 10–0120).

OMB Control Number: 2900–0524.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Each VA medical center has authority to hire its own VA police officers. Prior to employment of a qualified applicant, each facility is required to conduct an FBI arrest record inquiry and to contact listed former employers for a determination of any adverse performance or suitability information. VA Form 0120 is completed by each VA facility human resources office and serves as the record of pre-employment screening to determine the qualifications and suitability of the applicant. The Office of Security and Law Enforcement reviews each completed form and authorizes the VA police badge set issuance only in those instances where screening documentation is satisfactory accomplished. The form serves as a standard means of ensuring the completion of the pre-employment process.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 12, 1996 at page 10062.

Affected Public: State, Local or Tribal Government, Business or other for-profit, and Federal Government.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Respondents: 1,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to OMB Control No. 2900–0524 in any correspondence.

Dated: May 15, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director Information Management Service.

[FR Doc. 97–13711 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development Service; Notice of Meeting

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Public Law 92–463, that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development Service will be held at the Westin, 1400 M Street, N.W., Washington, D.C., June 23 through June 25, 1997, from 8:00 a.m. until 5:00 p.m. (Eastern Time) each day. The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care systems and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit. Recommendations regarding their funding are prepared for the Chief Research and Development Officer (12).

This meeting will be open to the public at the start of the June 23 session for approximately one half-hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will deal with the qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to frustrate significantly implementation of proposed agency action regarding such research projects). As provided by the subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mr. E. William Judy, MSHA, Review Program Manager (124F), Health Services Research and Development Service, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington,

D.C., at least five days before the meeting. For further information, he can be reached at (202) 273–8254.

Dated: May 19, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–13705 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

The Enhanced-Use Development of the VAMC St. Cloud, MN; Notice

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the St. Cloud, MN, Department of Veterans Affairs Medical Center (VAMC) for an Enhanced-Use development. The Department intends to enter into a long-term lease of real property with the City of St. Cloud. The City will operate an existing golf course and will construct and operate additional recreation facilities on the site, and will, as consideration for the lease, provide specified services to the Department at no cost.

FOR FURTHER INFORMATION CONTACT: Jacob Gallun, Office of Asset and Enterprise Development (189), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC, 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.*, specially provides that the Secretary may enter into an Enhanced-Use lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: May 16, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 97–13706 Filed 5–23–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 101

Tuesday, May 27, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-116-003]

Koch Gateway Pipeline Company; Notice of Compliance Filing

Correction

In notice document 97–13137 appearing on page 27597 in the issue of Tuesday, May 20, 1997, make the following correction:

On page 27597, in the second column, in the first document, the Docket No. should read as set forth above.

BILLING CODE 1505-01-D

FEDERAL TRADE COMMISSION

[File No. 952-3331]

America Online, Inc.; Analysis to Aid Public Comment

Correction

In notice document 97–12581 beginning on page 26510 in the issue of Wednesday, May 14, 1997, make the following correction:

On page 26510, in the first column, the second line in the **DATES** section, ''[60 days after **Federal Register** publication date]'' should read ''July 14, 1997.''

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96-28]

Robert G. Hallermeier, M.D. Continuation of Registration With Restrictions

Correction

In notice document 97–12802 beginning on page 26818 in the issue of Thursday, May 15, 1997, make the following corrections:

1. On page 26821, in the third column, second paragraph, ''(1) For the years...'' should read ''(1) For three years...''

2. On page 26821, at the end of the third column, the signature and title should have appeared below the date and should read:

James S. Milford,

Acting Deputy Administrator.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Parts 718, 722, 725, 726, and 727

RIN 1215-AA99

Regulations Inplementing the Federal Coal Mine Health and Safety Act of 1969, as Amended; Notice of Public Hearings

Correction

In proposed rule document 97–13166 beginning on page 27562 in the issue of Tuesday, May 20, 1997 make the following correction:

On page 27563, in the first column, in the fifth line, the entry ''by ESA'' should read ''to ESA''

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 5, 26, 27, 95, 100, 110, 130, 136, 138, 140, 151, 153, 177

46 CFR Part 2

[CGD 96-052]

RIN 2105-AC63

Civil Money Penalties Inflation Adjustments

Correction

In rule document 97–8781 beginning on page 16695 in the issue of Tuesday, April 8, 1997 make the following corrrections:

(1) On page 16696, in Table A -- SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS, under the ''U.S. Code citation'' heading, in the last entry ''33 U.S.C 1319(a)(2)(A)'' should read ''33 U.S.C 1319(g)(2)(A)''.

(2) On page 16697, also in Table A, under the same heading, in the fifth entry ''33 U.S.C. 3121(b)(6)(B)(i)'' should read ''33 U.S.C. 1321(b)(6)(B)(i)''.

PART 140--[CORRECTED]

(3) On page 16703, in the second column, in the authority citation for Part 140, in the first line ''42 U.S.C. 1333, 1348, 1350'' should read ''43 U.S.C. 1333, 1348, 1350''

BILLING CODE 1505-01-D

Federal Register

Tuesday
May 27, 1997

Part II

Department of Housing and Urban Development

Supportive Housing for the Elderly; Funding Availability—FY 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4202–N–01]

Notice of Funding Availability (NOFA) for Supportive Housing for the Elderly

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: This NOFA announces HUD's funding for supportive housing for the elderly. This NOFA describes the following: (a) the purpose of the NOFA, and information regarding eligibility, submission requirements, available amounts, and selection criteria; and (b) application processing, including how to apply and how selections will be made.

APPLICATION PACKAGE: The Application Package can be obtained from the Multifamily Housing Clearinghouse, P.O. Box 6424, Rockville, MD 20850; telephone 1–800–685–8470 (the TTY number is 1–800–483–2209), from the appropriate HUD office identified in Appendix B to this NOFA and also appears under the HUD Homepage on the Internet which can be accessed under ''Development'' at http://www.hud.gov/fha/fhamf.html. The Application Package includes a checklist of exhibits and steps involved in the application process.

DATES: The deadline for receipt of applications in response to this NOFA is 4 p.m. local time on July 28, 1997. The application deadline is firm as to *date* and *hour*. In the interest of fairness to all applicants, HUD will not consider any application that is received after the deadline. Sponsors should take this into account and submit applications as early as possible to avoid the risk of unanticipated delays or delivery-related problems. In particular, Sponsors intending to mail applications must provide sufficient time to permit delivery on or before the deadline date. Acceptance by a post office or private mailer does not constitute delivery. HUD will not accept facsimile (fax), COD, and postage due applications.

ADDRESSES: Applications must be delivered to the Director of the Multifamily Housing Division in the HUD office for your jurisdiction. A listing of HUD offices, their addresses, and telephone numbers, including TTY numbers is attached as Appendix B to this NOFA. HUD will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with an acknowledgement of receipt.

FOR FURTHER INFORMATION CONTACT: The HUD office for your jurisdiction, as listed in Appendix B to this NOFA.

SUPPLEMENTARY INFORMATION:

I. Purpose and Substantive Description

A. Authority

The Supportive Housing for the Elderly program, or the Section 202 program, is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q). Section 202 was amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (Pub. L. 101–625; approved November 28, 1990). Section 202 was also amended by the Housing and Community Development Act of 1992 (HCD Act of 1992) (Pub. L. 102–550; approved October 28, 1992), and by Public Law 104–19, enacted on July 27, 1995. Under the Section 202 program, the Secretary is authorized to provide assistance to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly. HUD provides the assistance as capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. This assistance may be used to finance the construction or rehabilitation of a structure, or acquisition of a structure from the Federal Deposit Insurance Corporation (formerly held by the Resolution Trust Corporation) (FDIC/RTC), to be used as supportive housing for the elderly in accordance with part 891.

Note that on March 22, 1996, HUD published a final rule (61 FR 11948) that consolidated the regulations for the Section 202 Program of Supportive Housing for the Elderly and the Section 811 Program of Supportive Housing for Persons with Disabilities in 24 CFR part 891.

For supportive housing for the elderly, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204; approved September 26, 1996) (the Act) provides $645,000,000 for capital advances, including amendments to capital advance contracts (not procurement contracts), for housing for the elderly as authorized by section 202 of the Housing Act of 1959 (as amended by the NAHA and HCD Act of 1992), and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended. In accordance with the waiver authority provided in the Act, the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance contract is reduced from 20 years to a minimum term of 5 years and a maximum term which can be supported by funds authorized by the Act. HUD anticipates that at the end of the contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

In accordance with an agreement between HUD and the Rural Housing Service (RHS) to coordinate the administration of the agencies' respective rental assistance programs, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concerns about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider the RHS comments in its review and project selection process.

B. Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related NOFAs that HUD has recently published or expects to publish in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

On April 8, 1997, HUD published in the **Federal Register** the NOFA for Continuum of Care Assistance. On April 10, 1997, HUD published the NOFA for

Rental Assistance for Persons with Disabilities in Support of Designated Housing Allocation Plans, and the NOFA for Mainstream Housing Opportunities for Persons with Disabilities. On April 18, 1997, HUD published the NOFA for the Family Unification Program. On May 7, 1997, HUD published the NOFA for Housing Opportunities for Persons with AIDS. Other NOFAs related to special population programs include the NOFA for the Section 811 Program of Supportive Housing for Persons with Disabilities, which is published elsewhere in today's **Federal Register**, and the NOFA for Service Coordinator Funds which HUD expects to publish within the next few weeks.

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. HUD may consider additional steps on NOFA coordination for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

C. Allocation Amounts

In accordance with 24 CFR part 791, the Assistant Secretary will allocate the amounts available for capital advances for supportive housing for the elderly. HUD reserves project rental assistance funds based upon 75 percent of the current operating cost standards to support the units selected for capital advances sufficient for minimum 5-year project rental assistance contracts.

The allocation formula for Section 202 funds consists of a measure of the number of one-and two-person elderly renter households with incomes at or below the very low income limit (50 percent of area median family income, as determined by HUD, with an adjustment for household size) that have housing deficiencies based on data from the 1990 Census.

Since the allocations to some HUD offices are not sufficient to develop feasible projects in both metropolitan and nonmetropolitan areas, the funds may be allocated to only one of the geographical areas.

The capital advance amount available to the Wisconsin State HUD Office, as stated below in this NOFA, may be reduced or eliminated due to ongoing legal proceedings between HUD and the City of Milwaukee. The determination of whether to reduce or eliminate those funds is entirely within the discretion of HUD. If HUD takes such action or actions, it will publish a notice to that effect in the **Federal Register**.

As a result of a rating error in the Massachusetts State Office, the application of the Rural Housing Improvements was not selected and funded under the Fiscal Year 1996 Supportive Housing for the Elderly Program. Since this was a HUD error, that application will be funded from the Fiscal Year 1997 allocation to the Massachusetts State Office.

Based on the allocation formula, HUD has allocated the available capital advance funds as shown on the following chart:

FISCAL YEAR 1997 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY—FISCAL YEAR 1997 SECTION 202 ALLOCATIONS

Offices	Metropolitan capital advance		Nonmetropolitan capital advance		Totals Capital advance	
	Authority	Units	Authority	Units	Authority	Units
New England:						
Massachusetts*	$13,224,738	163	$1,452,400	18	$14,677,138	181
Connecticut	5,330,691	66	2,028,960	25	7,359,651	91
New Hampshire	2,901,442	45	2,113,447	32	5,014,889	77
Rhode Island	4,535,046	56	0	0	4,535,046	56
Total	25,991,917	330	5,594,807	75	31,586,724	405
New York/New Jersey:						
New York	38,524,740	475	723,054	9	39,247,794	484
Buffalo	9,966,925	132	1,911,935	25	11,878,860	157
New Jersey	16,004,754	197	0	0	16,004,754	197
Total	64,496,419	804	2,634,989	34	67,131,408	838
Mid-Atlantic:						
Maryland	4,992,253	72	680,858	10	5,673,111	82
West Virginia	1,285,008	20	1,048,721	16	2,333,729	36
Pennsylvania	12,788,228	166	1,555,444	20	14,343,672	186
Pittsburgh	5,773,367	85	1,178,624	17	6,951,991	102
Virginia	3,949,284	68	1,319,703	23	5,268,987	91
D.C	5,258,701	73	0	0	5,258,701	73
Total	34,046,841	484	5,783,350	86	39,830,191	570
Southeast/Caribbean:						
Georgia	4,548,592	77	2,015,141	34	6,563,733	111
Alabama	3,359,260	59	1,380,968	24	4,740,228	83
Caribbean	3,320,946	41	1,138,410	14	4,459,356	55
South Carolina	2,989,534	48	1,088,659	17	4,078,193	65
North Carolina	5,889,849	80	2,695,611	36	8,585,460	116
Mississippi	1,088,875	20	1,572,105	29	2,660,980	49
Jacksonville	14,503,828	232	911,639	15	15,415,467	247
Kentucky	3,135,284	50	1,662,350	27	4,797,634	77

FISCAL YEAR 1997 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY—FISCAL YEAR 1997 SECTION 202 ALLOCATIONS—Continued

Offices	Metropolitan capital advance		Nonmetropolitan capital advance		Totals Capital advance	
	Authority	Units	Authority	Units	Authority	Units
Knoxville	2,098,457	38	626,016	11	2,724,473	49
Tennessee	2,828,198	50	1,226,999	22	4,055,197	72
Total	43,762,823	695	14,317,898	229	58,080,721	924
Midwest:						
Illinois	17,560,581	216	2,572,490	32	20,133,071	248
Cincinnati	4,060,883	65	312,798	5	4,373,681	70
Cleveland	7,530,815	107	996,071	14	8,526,886	121
Ohio	2,871,557	46	1,249,596	20	4,121,153	66
Michigan	8,111,211	113	358,450	5	8,469,661	118
Grand Rapids	2,758,296	45	1,086,645	18	3,844,941	63
Indiana	5,257,918	81	1,468,433	23	6,726,351	104
Wisconsin	6,059,408	85	2,117,599	30	8,177,007	115
Minnesota	6,010,579	80	1,665,724	22	7,676,303	102
Total	60,221,248	838	11,827,806	169	72,049,054	1,007
Southwest:						
Texas/New Mexico	5,861,192	101	1,765,910	30	7,627,102	131
Houston	3,787,923	65	685,013	12	4,472,936	77
Arkansas	1,882,145	37	1,346,577	26	3,228,722	63
Louisiana	3,708,951	66	893,565	16	4,602,516	82
Oklahoma	2,450,407	44	1,155,160	21	3,605,567	65
San Antonio	3,727,875	69	0	0	3,727,875	69
Total	21,418,493	382	5,846,225	105	27,264,718	487
Great Plains:						
Iowa	2,356,158	40	1,487,426	25	3,843,584	65
Kansas/Missouri	3,818,889	63	1,590,400	27	5,409,289	90
Nebraska	1,445,634	25	570,579	10	2,016,213	35
St. Louis	4,210,350	60	1,381,817	20	5,592,167	80
Total	11,831,031	188	5,030,222	82	16,861,253	270
Rocky Mountains: Colorado	5,236,189	81	2,274,376	38	7,510,565	119
Total	5,236,189	81	2,274,376	38	7,510,565	119
Pacific/Hawaii:						
Hawaii (Guam)	2,434,752	20	608,688	5	3,043,440	25
Los Angeles	27,990,373	351	399,029	5	28,389,402	356
Arizona	3,499,778	61	553,762	10	4,053,540	71
Sacramento	4,766,253	60	829,814	10	5,596,067	70
California	15,624,582	196	940,675	12	16,565,257	208
Total	54,315,738	688	3,331,968	42	57,647,706	730
Northwest/Alaska:						
Alaska	2,434,752	20	608,688	5	3,043,440	25
Oregon	4,152,210	60	1,558,795	23	5,711,005	83
Washington	5,909,649	80	1,195,392	16	7,105,041	96
Total	12,496,611	160	3,362,875	44	15,859,486	204
National Total	333,817,310	4,650	60,004,516	904	393,821,826	5,554

*This amount includes Capital Advance Authority of $2,120,900 to fund Rural Housing Improvements, Bolton, Massachusetts. Since this 28-unit project was not selected in Fiscal Year 1996 by HUD error, this application will be funded from the Fiscal Year 1997 allocation to the Massachusetts State HUD Office.

D. Eligibility

Private nonprofit organizations and nonprofit consumer cooperatives are the only eligible applicants under this program. Neither a public body nor an instrumentality of a public body is eligible to participate in the program. No organization shall participate as Sponsor or Co-sponsor in the filing of application(s) for a capital advance in a single geographical region in this fiscal year in excess of that necessary to finance the construction, rehabilitation, or acquisition (acquisition permitted only with FDIC/RTC properties) of 200

units of housing and related facilities for the elderly. This limit shall apply to organizations that participate as Co-sponsors regardless of whether the Co-sponsors are affiliated or nonaffiliated entities. In addition, the national limit for any one applicant is 10 percent of the total units allocated in all HUD offices. Affiliated entities that submit separate applications shall be deemed to be a single entity for the purposes of these limits. No single application may propose more than the number of units allocated to a HUD office or 125 units, whichever is less. Reservations for projects will not be approved for less than 5 units.

E. Initial Screening, Technical Processing, and Selection Criteria

1. Initial Screening

HUD will review applications for Section 202 capital advances that are received by HUD at the appropriate address by 4 p.m. local time on July 28, 1997, to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening. HUD will send deficiency letters by certified mail, informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 8 calendar days from the date of the deficiency letter. Any document requested as a result of the initial screening may be executed or prepared within the deficiency period, except for Forms HUD–92015–CAs, Articles of Incorporation, IRS exemption rulings, Forms SF–424, Board Resolution committing the minimum capital investment, and site control documents (all of these excepted items must be dated no later than the application deadline date).

2. Technical Processing

All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 8-day period. These applications will undergo a complete analysis based upon the information submitted in the application, including that submitted in response to the deficiency letter. If a reviewer finds that clarification of information submitted in the application is needed to complete the review, or an exhibit is missing that was not requested after initial screening, the reviewer shall immediately advise the Multifamily Housing Representative, who will: (a) request, by telephone, that the Sponsor submit the information within 5 working days; and (b) follow up by certified letter. As part of this analysis, HUD will conduct its environmental review in accordance with 24 CFR part 50.

Technical processing will also assure that the Sponsor has complied with the requirements in the civil rights certification in the Application Package. There must not have been an adjudication of a civil rights violation in a civil action brought against the Sponsor, unless the Sponsor is operating in compliance with a court order, or implementing a HUD-approved compliance agreement designed to correct the areas of noncompliance. There must be no pending civil rights suits against the Sponsor instituted by the Department of Justice, and no pending administrative actions for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act). There must be no outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, nor any charges issued by the Secretary against the Sponsor under the Fair Housing Act, unless the Sponsor is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance. Moreover, there must not be a deferral of the processing of applications from the Sponsor imposed by HUD under title VI of the Civil Rights Act of 1964, HUD's implementing regulations (24 CFR 1.8), procedures (HUD Handbook 8040.1), and the Attorney General's Guidelines (28 CFR 50.3); or under section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations (24 CFR 8.57), and the Americans with Disabilities Act.

Examples of reasons for technical processing rejection include an ineligible Sponsor or population to be served, project will have adverse impact on existing HUD-insured or assisted housing, lack of legal capacity, lack of site control, outstanding or pending civil rights findings/violations, insufficient need, and unacceptable site based upon a site visit. The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons, and affording the applicant an opportunity to appeal. HUD will afford an applicant 10 calendar days from the date of HUD's written notice to appeal a technical rejection to the HUD office. The HUD office must respond within 5 working days to the Sponsor. The HUD office shall make a determination on an appeal prior to making its selection recommendations. All applications will be either rated or technically rejected at the end of technical processing.

Upon completion of technical processing, all acceptable applications will be rated according to the selection criteria in section I.E.3. of this NOFA, below. Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score (without the addition of bonus points) of 60 points or more will be eligible for selection, and HUD will place them in rank order per metropolitan or nonmetropolitan allocation. After adding any bonus points, HUD will select these applications based on rank order, up to and including the last application that can be funded out of each of the local HUD office's metropolitan or nonmetropolitan allocations. HUD offices shall not skip over any applications in order to select one based on the funds remaining. However, after making the initial selections in each allocation area, any residual funds may be used to fund the next rank-ordered application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of nine units or less.

Once this process has been completed, HUD offices may combine their unused metropolitan and nonmetropolitan funds in order to select the next ranked application in either category, using the unit reduction policy described above, if necessary.

Funds remaining after these processes are completed will be returned to Headquarters. These funds will be used first to restore units to projects reduced by HUD offices as a result of the instructions above and, second, for selecting applications on a national rank order. No more than one application will be selected per HUD office from the national residual amount, however, unless there are insufficient approvable applications in other HUD offices. If funds still remain, additional applications will be selected based on a national rank order, insuring an equitable distribution among HUD offices.

3. Selection Criteria (Base Points)

HUD will rate applications for Section 202 capital advances that successfully complete technical processing using the selection criteria set forth below, and the guidelines set forth in Appendix A to this NOFA:

(a) The Sponsor's ability to develop and operate the proposed housing on a long-term basis, considering the following (52 points maximum):

(1) The scope, extent, and quality of the Sponsor's experience in providing housing or related services to those proposed to be served by the project, and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity, as well as its financial management capability (30 points);

(2) The scope, extent, and quality of the Sponsor's experience in providing housing or related services to minority persons or families (10 points). For purposes of this NOFA, ''minority'' means the basic racial and ethnic categories for Federal statistics and administrative reporting, as defined in OMB's Statistical and Policy Directive No. 15. (See 60 FR 44673, 44692; August 28, 1995.);

(3) The extent of local government support for the project (5 points);

(4) The extent of the Sponsor's activities in the community, including previous experience in serving the area where the project is to be located, and the Sponsor's demonstrated ability to enlist volunteers and raise local funds (7 points).

(b) The need for supportive housing for the elderly in the area to be served and the suitability of the site, considering the following (28 points maximum):

(1) The extent of the need for the project in the area based on a determination by the HUD office. HUD will make this determination by considering the Sponsor's evidence of need in the area, as well as other economic, demographic, and housing market data available to the HUD office. The data could include the availability of existing Federally assisted housing (HUD and RHS) (e.g., considering availability and vacancy rates of public housing) for the elderly and current occupancy in such facilities; Federally assisted housing for the elderly under construction or for which fund reservations have been issued; and in accordance with an agreement between HUD and the RHS, comments from the RHS on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area (8 points);

(2) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants; adequacy of utilities and streets; freedom of the site from adverse environmental conditions; compliance with site and neighborhood standards (10 points); and

(3) Suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minority elderly persons/families, and affirmatively furthering fair housing (10 points).

(c) Adequacy of the provision of supportive services and of the proposed facility, considering the following (20 points maximum):

(1) The extent to which the proposed design will meet the special physical needs of elderly persons (3 points);

(2) The extent to which the proposed size and unit mix of the housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion (4 points);

(3) The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve (3 points);

(4) The extent to which the proposed supportive services meet the identified needs of the residents (5 points); and

(5) The extent to which the Sponsor demonstrated that the identified supportive services will be provided on a consistent, long-term basis (5 points).

The maximum number of points an application can earn without bonus points is 100. An application can earn an additional 10 bonus points, as described immediately below, for a maximum total of 110 points.

4. Bonus Points

(a) The Sponsor's involvement of elderly persons, particularly minority elderly persons, in the development of the application, and its intent to involve elderly persons, particularly minority elderly persons, in the development of the project (5 bonus points);

(b) The project will be located within the boundaries of a Federally designated Empowerment Zone, Urban Supplemental Empowerment Zone, Enterprise Community, or an Urban Enhanced Enterprise Community (5 bonus points).

II. Application Process

All applications for Section 202 capital advances submitted by eligible Sponsors must be filed with the appropriate HUD office receiving an allocation and must meet the requirements of this NOFA. HUD will not accept any application after 4 p.m. local time on July 28, 1997, unless that date and time is extended by a notice published in the **Federal Register**. HUD will not accept applications received after the deadline date and time, even if postmarked by the deadline date. Applications submitted by facsimile are not acceptable.

Immediately upon publication of this NOFA, if HUD offices have not already provided names to the Multifamily Housing Clearinghouse, the offices shall notify elderly and minority media, all persons and organizations on their mailing lists, minority and other organizations within their jurisdiction involved in housing and community development, and groups with special interest in housing for elderly households.

Organizations interested in applying for a Section 202 capital advance should contact the Multifamily Housing Clearinghouse at 1–800–685–8470 (the TTY number is 1–800–483–2209) for a copy of the application package, and advise the HUD office whether they wish to attend the workshop described below. HUD encourages minority organizations to participate in this program as Sponsors. HUD offices will advise all organizations on their mailing list of the date, time, and place of workshops at which HUD will explain the Section 202 program.

HUD strongly recommends that prospective applicants attend the local HUD office workshop. Interested persons with disabilities should contact the HUD office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop. At the workshops, HUD will explain application procedures and requirements. HUD will also address concerns such as local market conditions, building codes, historic preservation, floodplain management, displacement and relocation, zoning, and housing costs.

While strongly urged to do so, if Sponsors cannot attend a workshop, they can obtain Application Packages from the Multifamily Housing Clearinghouse (see address and telephone number in the ''Application Package'' section of this NOFA, above). However, Sponsors who cannot attend the workshops are strongly encouraged to contact the appropriate HUD office with any questions regarding the submission of applications to that particular office and to request any materials handed out at the workshop.

III. Application Submission Requirements

A. Application

Each application must include all of the information, materials, forms, and exhibits listed in section III.B., below (with the exception of applications submitted by Sponsors selected for a Section 202 fund reservation within the last three funding cycles), and must be indexed and tabbed. Such previously selected Section 202 Sponsors are not required to submit the information described in sections B.2. (a), (b), and (c) of this NOFA, below (Exhibits 2. a., b., and c. of the application), which are the articles of incorporation, (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of the eligibility documents since its previous HUD approval, the Sponsor must submit the updated information in its application. The local HUD office will base its determination of the eligibility of a new Sponsor for a reservation of Section 202 capital advance funds on the information provided in the application. HUD offices will verify a Sponsor's indication of previous HUD approval by checking the project number and approval status with the appropriate HUD office.

In addition to this relief of paperwork burden in preparing applications, applicants will be able to submit information and exhibits they have previously prepared for prior applications under Section 202, Section 811, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs, applicant experience in provision of housing and services, supportive services plan, community ties, and experience serving minorities.

B. General Application Requirements

1. Form HUD–92015–CA, Application for Section 202 Supportive Housing Capital Advance.

2. Evidence of each Sponsor's legal status as a private nonprofit organization or nonprofit consumer cooperative, including the following:

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches). A consumer cooperative that is tax exempt under State law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if it is not eligible for tax exemption.

Note: Sponsors who have received a section 202 fund reservation within the last three funding cycles are not required to submit the documents described in (a), (b), and (c), above. Instead, Sponsors Must Submit the project number of the latest application and the HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.

(d) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title, and the beginning and ending dates of each person's term.

3. Sponsor's purpose, community ties, and experience, including the following:

(a) A description of Sponsor's purposes and activities, ties to the community (including the minority community), local government support (including financial support and services), how long the Sponsor has been in existence, and any additional related information;

(b) A description of Sponsor's housing and/or supportive services experience. The description should include any rental housing projects and/or supportive services facilities sponsored, owned, and operated by the Sponsor; the Sponsor's past or current involvement in any programs other than housing that demonstrates the Sponsor's management capabilities (including financial management) and experience; the Sponsor's experience in serving the elderly, including elderly persons with disabilities, and/or families and minorities; and the reasons for receiving any increases in fund reservations for developing and/or operating previously funded projects;

(c) A description of Sponsor's participation in joint ventures and experience in contracting with minority-owned businesses, women-owned businesses, and small businesses over the last 3 years, including a description of the joint venture, partners and the Sponsor's involvement, and a summary of the total contract amounts awarded in each of the 3 categories for the preceding 3 years, and the percentage that amount represents of all contracts awarded by the Sponsor in the relevant time period;

(d) A certified Board Resolution, acknowledging the responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage, and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of 1 percent of the HUD-approved capital advance, not to exceed $10,000, if nonaffiliated with a National Sponsor; one-half of 1 percent of the HUD-approved capital advance, not to exceed $25,000, for all other Sponsors), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance;

(e) Description, if applicable, of the Sponsor's efforts to involve elderly persons, including minority elderly persons, in the development of the application, as well as its intent to involve elderly persons in the development of the project.

4. Project information, including the following:

(a) Evidence of need for supportive housing. Such evidence would include a description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing Federally assisted housing for the elderly (HUD and RHS; e.g., public housing); State or local data on the limitations in activities of daily living among the elderly in the area; aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure, and housing condition; the types of supportive services arrangements currently available in the area; and the use of such services as evidenced by data from local social service agencies or agencies on aging.

(b) Description of the project, including the following:

(1) Narrative description of the building design, including a description of any special design features and community space, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10–20 years;

(2) Description of whether and how the project will promote energy efficiency, and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(c) Evidence of site control and permissive zoning, including the following:

(1) Evidence that the Sponsor has entered into a legally binding option agreement (which extends through the end of the current fiscal year and contains a renewal provision so that the option can be renewed for at least an additional 6 months) to buy or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold, a request with all supporting documentation, submitted either prior to or with the Application for Capital Advance, for a partial release of a site covered by a mortgage under a HUD program, or other evidence of legal ownership of the site (including properties to be acquired from the FDIC/RTC). The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of Section 202 capital advance and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines the time constraints of the funding round will not permit all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, a letter in the application from the mayor or director of the appropriate local agency indicating approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the HUD office if it has satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation must also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses;

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the section 202 project or from any other development team member.

(2) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for belief that the proposed action will be completed successfully before the submission of the firm commitment application (e.g., a summary of the results of any requests for rezoning on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies);

(3) A narrative topographical and demographic description of the suitability of the site and area, and how the site will promote greater housing opportunities for minority elderly and elderly persons with disabilities, thereby affirmatively furthering fair housing;

(4) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated;

(5) A Phase I Environmental Site Assessment, in accordance with the American Society for Testing and Material (ASTM) Standards E 1527–93, as amended. Since the Phase I study must be completed and submitted with the application, it is important that the Sponsor start the site assessment process as soon after publication of the NOFA as possible.

If the Phase I study indicates the possible presence of contamination and/or hazards, the Sponsor must decide whether to continue with this site or choose another site. Should the Sponsor choose another site, the same environmental site assessment procedure identified above must be followed for that site.

Note: For properties to be acquired from the FDIC/RTC, include a copy of the FDIC/RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the FDIC/RTC Environmental Guidelines.

If the Sponsor chooses to continue with the original site on which the Phase I study indicated contamination or hazards, then it must undertake a detailed Phase II Environmental Site Assessment by an appropriate professional. If the Phase II Assessment reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable Federal, State, and/or local agency with jurisdiction over the site. In order for the application to be considered for review under this FY 1997 funding competition, this information would have to be submitted to the local HUD office no later than August 25, 1997.

Note: This could be an expensive undertaking. The Cost of any clean-up and/or remediation must be borne by the sponsor.

(6) A letter from the State Historic Preservation Officer indicating whether the proposed site has any historical significance.

(d) Provision of supportive services and proposed facility:

(1) A detailed description of the supportive services proposed to be provided to the anticipated occupancy;

(2) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services;

(3) The manner in which such services will be provided to such persons (i.e., on or off-site), including whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents.

Note: Disability related supportive services cannot be a condition for tenancy.

5. A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other HUD office in response to this NOFA or the NOFA for Section 811 Program of Supportive Housing for Persons with Disabilities (published elsewhere in today's **Federal Register**). Indicate by HUD office, the proposed location by city and State, and the number of units requested for each application. Include a list of all FY 1996 and prior year projects to which the Sponsor(s) is a party that have not been finally closed. Such projects must be identified by project number and HUD office.

6. HUD–2880, Applicant/Recipient Disclosure/Update Report, including Social Security Numbers and Employer Identification Numbers.

7. Executive Order 12372 certification. A certification that the Sponsor has submitted a copy of its applications, if required, to the State agency (single point of contact) for State review in accordance with E.O. 12372.

8. A statement that (a) identifies all persons (families, individuals, businesses, and nonprofit organizations), identified by race/minority group, and status as owners or tenants, occupying the property on the date of submission of the application for a capital advance; (b) indicates the estimated cost of relocation payments and other services; (c) identifies the staff organization that will carry out the relocation activities; and (d) identifies all persons that have moved from the site within the past 12 months.

Note: If any of the relocation costs will be funded from sources other than the Section 202 capital advance, the (sponsor must

provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction, and other project costs).

9. SF–424. A certification on SF–424, Application for Federal Assistance, that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

10. A certification regarding Lobbying that complies with 24 CFR part 87 must be submitted by the Sponsor. If the Sponsor has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR part 87, the submission must also include SF–LLL, Disclosure of Lobbying Activities.

11. Certification of Consistency with the Consolidated Plan (Plan) for the jurisdiction in which the proposed project will be located must be submitted by the Sponsor. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise the certification may be made by the State, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if the unit of general local government is willing to prepare such a Plan.

All certifications must be made by the public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline set forth in this NOFA. The Consolidated Plan regulations are published in 24 CFR part 91.

12. Sponsor Certifications. (a) A certification that the Sponsor will comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations in 24 CFR parts 100, 108, and 110; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations in 24 CFR part 1; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations in 24 CFR part 146; Executive Order 11246 (as amended) and the implementing regulations in 41 CFR Chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) in 24 CFR part 107; the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) to the extent applicable; the affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the regulations in 24 CFR part 108; and other applicable Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

(b) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(c) A certification that the project will comply with HUD's project design and cost standards; the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's implementing regulations at 24 CFR part 8; and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100; and the Americans with Disabilities Act of 1990.

(d) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations in 49 CFR part 24, and 24 CFR 891.155(e).

(e) A certification by the Sponsor(s) that it will: (i) form an ''Owner'' (as defined in 24 CFR 891.205) after the issuance of the capital advance; (ii) cause the Owner to file a request for determination of eligibility and a request for capital advance; and (iii) provide sufficient resources to the Owner to insure the development and long-term operation of the project, including capitalizing the Owner at firm commitment processing in an amount sufficient to meet its obligations in connection with the project.

IV. Development Cost Limits

A. The following development cost limits, adjusted by locality as described in section IV.B. of this NOFA, below, shall be used to determine the capital advance amount to be reserved for projects for the elderly:

(1) The total development cost of the property or project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features to be paid for by the Sponsor) may not exceed:

Nonelevator structures:

$28,032 per family unit without a bedroom;
$32,321 per family unit with one bedroom;
$38,979 per family unit with two bedrooms;

For elevator structures:

$29,500 per family unit without a bedroom;
$33,816 per family unit with one bedroom;
$41,120 per family unit with two bedrooms.

(2) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the accessibility requirements of § 891.120(b); and the project design and cost standards of § 891.120.

B. Increased development cost limits. (1) HUD may increase the development cost limits set forth in section IV.A.(1) of this NOFA, above, by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis.

(2) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands, or Hawaii make it infeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in section IV.A. of this NOFA, above, the amount of the capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

V. Findings and Certifications

A. Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0267. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

B. Environmental Impact

This NOFA provides funding under, and does not alter the environmental provisions of, regulations in 24 CFR part 891, which were published in the **Federal Register** on March 22, 1996 (61 FR 11956). Accordingly, under 24 CFR 50.19(c)(5), as published in the **Federal Register** on September 27, 1996 (61 FR

50914, 50919), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The environmental review provisions of the Section 202 program regulations are in 24 CFR 891.155(b).

C. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA does not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This NOFA merely notifies the public of the availability of capital advances and project rental assistance for supportive housing for the elderly. As a result, this NOFA is not subject to review under the Order.

D. Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

E. Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are prohibited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815 (this is not a toll-free number). To access this number by TTY, dial 1–800–877–8339. HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

F. Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants of Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments, and if applicants have made any payments or agreement to make payments of nonappropriated funds for these purposes, they must submit a form SF–LLL disclosing such payments. The certification and the SF–LLL are included in the Application Package.

The Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

H. Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program title and number is 14.157, Housing for the Elderly or Handicapped.

Authority: Section 202, Housing Act of 1959, as amended (12 U.S.C. 1701q); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 7, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix A—Guidelines for Rating Section 202 Applications FY 1997 Supportive Housing for the Elderly

Directions: In applications proposing a Co-Sponsor, the Sponsor and Co-Sponsor are to be evaluated and scored separately. The higher score shall be awarded to the application.

The full range of numerical ratings should be used.

1. In determining the Sponsor's ability to develop and operate the proposed housing on a long-term basis, consider: 52 points maximum.

(MHR) (a) & AM avg'd)—The scope, extent and quality of the Sponsor's experience in providing housing OR related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity and financial management capability (30 points maximum).

25–30 Points—Sponsor must have developed and operated at least one housing project comparable in scope to the project being applied for or provided related supportive services for at least five years for the proposed population and, demonstrated a consistent performance in timely development, effective marketing, and efficient management of housing and/or service delivery. Also, the Sponsor must not have received any unreasonable increases in fund reservations for developing and/or operating previously funded projects.

12–24 Points—Sponsor has at least three years experience in providing housing and/or supportive services for the proposed population and has demonstrated consistent performance in timely development, effective marketing, and efficient management of housing and/or service delivery.

1–11 Points—Sponsor has less than three years experience in providing either housing or supportive services for the proposed population, or, has not performed consistently in the development, marketing, and management of housing and/or service delivery.

(FHEO) (b)—The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families (10 points maximum).

10 points—Sponsor has significant previous experience in housing/serving minorities (i.e., previous housing assistance/related service to minorities was equal to or greater than the percentage of minorities in the jurisdiction where the previous housing/service experience occurred); and the Sponsor has ties to the minority community.

8–9 points—Sponsor has significant previous experience in housing/serving minorities. There is no evidence that the Sponsor has ties to the minority community.

5–7 points—Sponsor has minimal experience in housing/serving minorities (i.e., previous housing assistance/related service to minorities was less than the percentage of minorities in the jurisdiction where the previous housing/related service experience occurred); and the Sponsor has ties to the minority community.

3–4 points—Sponsor has minimal experience in housing/serving minorities but the Sponsor does not have ties to the minority community.

1–2 points—The Sponsor does not have experience in housing/serving minorities, but there is evidence that the Sponsor has ties to the minority community.

0 points—None of the above.

(SEC (c) REP)—The extent of local government support for the project. (5 points maximum).

5 points—The application contains written evidence that the local government intends to provide financial assistance and community services to the proposed project and the project is consistent with the Consolidated Plan which shows a need for elderly housing.

3 points—The application contains written evidence that the local government intends to provide community services to the proposed project and the project is consistent with the Consolidated Plan which shows a need for elderly housing.

1 point—The Sponsor has enlisted some support in the community (i.e., letters of support from other agencies) for the proposed project and the project is consistent with the Consolidated Plan which shows a need for elderly housing.

MHR (d)—The extent of the Sponsor's previous experience in serving the area where the project is to be located (i.e., extent of its activities, period of involvement, and the size of the population served), and Sponsor's demonstrated ability to enlist volunteers and raise local funds (7 points maximum).

4–7 points—The Sponsor has provided documentation which demonstrates its previous experience in serving the project locality, and has a good track record of private fund raising and enlisting volunteers in the community.

1–3 points—The Sponsor has limited experience in serving the area where the project is to be located, or in securing private funding or enlisting volunteers in a community.

2. In determining the need for supportive housing for the elderly in the area to be served and the suitability of the site, consider: 28 points maximum.

(EMAS) (a)—The extent of the need for the project in the area based on a determination by the HUD Office. This determination will be made by taking into consideration the Sponsor's evidence of need in the area, as well as other economic, demographic and housing market data available to the HUD Office (8 points maximum).

Rating points for all projects, determined to be marketable, are to be based on the ratio of the number of units in the proposed project to the estimate of unmet need for housing assistance by the income eligible elderly households with selected housing conditions, as follows. Unmet housing need is defined as the number of very low-income renter households with housing problems, as of the 1990 Census minus the number of Federally assisted housing units provided since the 1990 Census. HUD will, to the extent practicable, consider all units provided for the elderly under the Section 8 programs, the Public and Indian Housing programs, the Section 202 program, and the Rural Housing Service's Section 515 Rural Rental Housing program.

8 Points—The number of units proposed is 10 percent or less of the income eligible unmet need.

4 Points—The number of units proposed is 11 percent or more of the income eligible unmet need.

(VAL) (b)—The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants, adequacy of utilities and streets, freedom of the site from adverse environmental conditions, and compliance with site and neighborhood standards (10 points maximum).

7–10 points—All necessary services and facilities, including shopping facilities for daily necessities (groceries, toiletries and medicines), are within safe walking distance, or are easily accessible by frequently operating public transportation or by transportation provided by the Sponsor. Utilities and streets are available, adequate to serve the proposed use, and will require little or no off-site construction.

Permissive zoning is in place.

No filling is necessary; soil shows no evidence of instability; or, minimal grading is necessary to improve site drainage. Site is adequate in size, exposure, configuration, and topography with no special facilities required. Site is free from all adverse environmental conditions, including hazardous conditions, and adequate fire and police protection is readily available.

4–6 points—Some necessary services and facilities, including shopping facilities for daily necessities, are within safe walking distance OR are easily accessible by frequently operating public transportation or by transportation provided by the Sponsor.

Streets and/or utilities can be made available to the site with moderate extensions.

Rezoning is necessary and Sponsor provided a reasonable assurance that it will be accomplished with only minor extensions.

Some filling is necessary; soil shows some evidence of instability; or minor grading is necessary to improve site drainage. Site is adequate in size, exposure, configuration and topography with no special facilities required. Site is free from all hazardous environmental conditions, but some minor *adverse* conditions exist (e.g., higher than acceptable noise level). However, mitigation is possible without significant expenditures of time and expense. Adequate fire and police protection is readily available.

1–3 points—Few necessary services and facilities, including shopping facilities for daily necessities are within safe walking distance. Description of the availability of public transportation or the willingness, capacity and plan of the Sponsor to provide transportation is vague.

Streets and/or utilities can be made available to the site only with significant extensions.

Rezoning is necessary and the Sponsor provided a reasonable assurance that it will be accomplished with moderate extensions.

Moderate filling is necessary; soil shows evidence of instability including the need for geo-technical and/or dynamic soil analysis; or moderate regrading is necessary to improve site drainage. Site is minimally acceptable in terms of size, exposure, configuration, drainage, and topography with some special facilities required. Site is free from all hazardous environmental conditions, but some minor adverse conditions exist (e.g., higher than acceptable noise level).

However, mitigation is possible but with significant expenditures of time and expense. Adequate fire and police protection is readily available.

(FHEO) (c)Suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minority persons and affirmatively furthering fair housing. (10 points maximum)

FHEO awards points under this criterion by considering the existence and location of existing housing for minority persons and whether a minority concentrated area has an unmet need for such housing in determining whether a site promotes housing choice.

Situation #1—Housing market area where there is no existing assisted housing for elderly minority persons (including Section 202, low rent public housing, and other assisted housing projects). There is a need for such housing both inside and outside areas of minority concentration.

10 points—The site is located in a racially mixed area with a need for such housing.

8 points—The site is located in a nonminority area with a need for such housing.

5 points—The site is located in a minority concentrated area with a need for such housing. The Sponsor has comparable rental units outside of the minority concentrated area that will be available to elderly minority persons through vacancies and/or turnover, thus providing a housing choice to those elderly minority persons who live outside the minority community.

3 points—The site is located in a minority concentrated area with a need for housing. Sponsor does not have comparable rental units outside of the minority concentrated area.

0 points—None of the above. The site, although acceptable, does not promote a greater choice of housing opportunities for minority elderly persons.

Situation #2—Housing market area where there is existing assisted housing for the minority elderly (including Section 202, other low rent public housing, and other assisted housing projects for minority elderly persons) and such housing is located in a nonminority area. There is an unmet need to house minority elderly persons in a minority concentrated area:

10 points—The site is located in a minority concentrated area with an unmet housing need for elderly and/or minority elderly persons.

8 points—The site is located in a racially mixed area bordering the minority concentrated area with an unmet need for housing minority elderly persons.

5 points—The site is located in a non-minority area but Sponsor has comparable rental units in the minority concentrated area that will be available to minority elderly persons through vacancies and/or turnover, thus providing a housing choice to minority elderly persons who desire to remain in the minority community.

0 points—None of the above. The site, although acceptable, does not promote a greater choice of housing opportunities for minority elderly persons.

Situation #3—Housing market area where the existing housing for minority elderly persons is located in an area of minority concentration. There is still a housing need in the minority concentrated area, as well as in the community as a whole:

10 points—The site is located in a racially mixed area.

8 points—The site is located in a non-minority area.

5 points—The site is located in a minority area but Sponsor has comparable rental units outside of the minority concentrated area that will be available to minority elderly persons (through vacancies and/or turnover), thus providing a housing choice to minority elderly persons who live outside the minority community.

0 points—None of the above. The site, although acceptable, does not promote a greater choice of housing opportunities for minority elderly persons.

Situation #4—Housing market area where few or no minorities live. (There are no or few areas of minority concentration.)

10 points—The site is located in a housing market area with a population of only a few minorities.

5 points—The site is located in a housing market area with a population of no minorities.

Situation #5—Housing market area where existing assisted housing for the minority elderly is inside a minority concentrated area and also outside a minority concentrated area. Both areas have an unmet need for housing for minorities.

10 points—The site is located Outside and the majority of assisted housing is located inside.

10 points—The site is located Inside and the majority of assisted housing is located outside.

5 points—The site is located Outside and the majority of assisted housing is located outside.

5 points—The site is located Inside and the majority of assisted housing is located inside.

Situation #6—Housing market area where few or no nonminorities live. (There are no or few areas of nonminority concentration.)

10 points—The site is located in a housing market area with a population of only a few nonminorities.

5 points—The site is located in a housing market area with a population of no nonminorities.

3. In determining the adequacy of the provision of supportive services, consider the following: 20 points maximum.

(ARCH) (a)—The extent to which the proposed design will meet the special physical needs of elderly persons (3 points maximum).

3 points—The narrative is detailed and indicates how local codes and Section 202 program requirements will be met and how Fair Housing Amendments and Section 504 requirements will be included in the design development of the project's interior and exterior spaces, circulation, and recreation.

1–2 points—The narrative is general and indicates how local codes, Section 202, Fair Housing Amendments and Section 504 requirements will be achieved, and gives assurances that full compliance will be achieved during the design phase.

(ARCH) (b)—The extent to which the proposed size and unit mix of housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical manner (4 points maximum).

3–4 points—The narrative provides a detailed description about the proposed project, including a description of the building type, unit configuration, special design features, community spaces, amenities and proposed utilities, and how the proposed project will aid in the delivery of services in an economical manner. The narrative indicates that the proposed size, unit mix and delivery of services is well thought out and will foster easy management and economic operation. There are no prohibited amenities or spaces not funded by the Sponsor.

1–2 points—The narrative provides a general description about the proposed project or does not go into the level of detail as indicated above, but sufficient information is provided to come to the belief that the proposed size, unit mix and delivery of services will foster easy management and economic operation. There are no prohibited amenities or spaces not funded by the Sponsor.

(ARCH) (c)—The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve (3 points maximum).

3 points—The proposed population does not have any special needs requiring special design features, and there will not be any on-site services requiring special accommodations; HOWEVER, the Sponsor has addressed aging in place and described how supportive services will be made available to the residents in the future for the remaining useful life of the project;

or

The narrative indicates that special features to accommodate supportive services will be provided. These features are described in detail, indicating the items, and their purpose, and may include other related information, such as, quantity, size, related codes and standards, locations, and other pertinent data.

The features may provide items such as: (1) adequate food storage, preparation, and consumption areas; (2) a convenient on-site passenger pick-up and drop-off area; and (3) any other required feature to accommodate proposed supportive services.

These features constitute acceptable amenities, and do not include any prohibited amenities not funded by the Sponsor or clinical/health type equipment.

1–2 points—Same as above, except that the description is in general terms, and data such as quantity, sizes, and specific locations and applicable codes and standards are not included. The features constitute acceptable amenities, and do not include prohibited amenities not funded by the Sponsor or clinical/health type equipment.

(MHR & AM avg'd)—(d) The extent to which the proposed supportive services meet the identified needs of the residents. (5 points maximum)

5 points—The proposed population does not have any special supportive service needs; However, the Sponsor has addressed aging in place and described how supportive services will be made available to the residents in the future for the remaining useful life of the project;

or

Sponsor has comprehensively described the specific supportive service needs of the identified elderly group to be housed. Proposed services address the identified needs, provide for tailoring to individual needs, and are consistent with program requirements. Method of service delivery is appropriate and clearly described. Sponsor's service plan discusses provisions for those aging in place.

3–4 points—The elderly group to be housed and their supportive needs are well described. Proposed services address the principal needs identified, and the method of delivery is appropriate. The service plan is consistent with program requirements. Aging in place needs are addressed.

1–2 points—The elderly group to be housed and their supportive needs are generally described. Description of services and method of delivery are general in nature. Some specifics of the service plan may yet need to be developed. Aging in place needs are discussed.

(MHR & AM avg'd)—(e) The extent to which the sponsor demonstrated that the identified supportive services will be provided on a consistent long-term basis (5 points maximum).

4–5 points—Well documented explanation for the long-term provision of supportive services, including funding, for residents as they age in place.

1–3 points—Limited explanation for the long-term provision of supportive services, including funding, for residents as they age in place.

4. Bonus Points.

(MHR)(a)—The Sponsor has involved elderly persons, including minority elderly persons, in the development of the application and will involve elderly persons, including minority elderly persons, in the development of the project (5 Bonus Points). [See Exhibit 3e.]

The Sponsor met with elderly persons at least twice during the preparation of the application to solicit comments, drafts of the application were circulated to elderly persons for review, and/or the Sponsor board includes at least 20 percent elderly members. Also, the Sponsor discussed the input received and whether the input was accepted.

(CPD)(b)—The project will be located within the boundaries of a Federally designated Empowerment Zone, Urban Supplemental Empowerment Zone, Enterprise Community, or an Urban Enhanced Enterprise Community (5 bonus points).

Appendix B—HUD Offices

Note: The first line of the mailing address for all offices is Department of Housing and Urban Development. Telephone numbers listed are not toll-free.

HUD—New England Area

Connecticut State Office

First Floor, 330 Main Street, Hartford, CT 06106–1860, (203) 240–4523, TTY Number: (860) 240–4665

Massachusetts State Office

Room 375, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, MA 02222–1092, (617) 565–5234, TTY Number: (617) 565–5453

New Hampshire State Office

Norris Cotton Federal Building, 275 Chestnut Street, Manchester, NH 03101–2487, (603) 666–7681, TTY Number: (603) 666–7518

Rhode Island State Office

Sixth Floor 10 Weybosset Street, Providence, RI 02903–3234, (401) 528–5351, TTY Number: (401) 528–5403

HUD—New York, New Jersey Area

New Jersey State Office,

Thirteenth Floor, One Newark Center, Newark, NJ 07102–5260, (201) 622–7900, TTY Number: (201) 645–3298

New York State Office

26 Federal Plaza, New York, NY 10278–0068, (212) 264–6500, TTY Number: (212) 264–0927

Buffalo Area Office

Fifth Floor, Lafayette Court, 465 Main Street, Buffalo, NY 14203–1780, (716) 551–5755, TTY Number: (716) 551–5787

HUD—Mid-Atlantic Area

District of Columbia Office

820 First Street, NE, Washington, D.C. 20002–4502, (202) 275–9200, TTY Number: (202) 275–0772

Maryland State Office

Fifth Floor, City Crescent Building, 10 South Howard Street, Baltimore, MD 21201–2505, (410) 962–2520, TTY Number: (410) 962–0106

Pennsylvania State Office

The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3390, (215) 656–0600, TTY Number: (215) 656–3452

Virginia State Office

The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, VA 23230–0331, (804) 278–4507, TTY Number: (804) 278–4501

West Virginia State Office

Suite 708, 405 Capitol Street, Charleston, WV 25301–1795, (304) 347–7000, TTY Number: (304) 347–5332

Pittsburgh Area Office

339 Sixth Avenue, Sixth Floor, Pittsburgh, PA 15222–2515, (412) 644–6428, TTY Number: (412) 644–5747

HUD—Southeast/Caribbean Area

Alabama State Office

Suite 300, Beacon Ridge Tower, 600 Beacon Parkway, West, Birmingham, AL 35209–3144, (205) 290–7617, TTY Number: (205) 290–7630

Caribbean Office

New San Juan Office Building, 159 Carlos Chardon Avenue, San Juan, PR 00918–1804, (809) 766–6121, TTY Number: (809) 766–5909

Georgia State Office

Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, GA 30303–3388, (404) 331–5136, TTY Number: (404) 730–2654

Kentucky State Office

601 West Broadway, P.O. Box 1044, Louisville, KY 40201–1044, (502) 582–5251, TTY Number: 1–800–648–6056

Mississippi State Office

Suite 910, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Jackson, MS 39269–1096, (601) 965–5308, TTY Number: (601) 965–4171

North Carolina State Office

Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407–3707, (919) 547–4001, TTY Number: (919) 547–4055

South Carolina State Office

Strom Thurmond Federal Building, 1835–45 Assembly Street, Columbia, SC 29201–2480, (803) 765–5592, TTY Number: (803) 253–3071

Tennessee State Office

Suite 200, 251 Cumberland Bend Drive, Nashville, TN 37228–1803, (615) 736–5213, TTY Number: (615) 736–2886

Jacksonville Area Office

Suite 2200, Southern Bell Tower, 301 West Bay Street, Jacksonville, FL 32202–5121, (904) 232–2626, TTY Number: (904) 232–1241

Knoxville Area Office

Third Floor, John J. Duncan Federal Building, 710 Locust Street, Knoxville, TN 37902–2526, (423) 545–4384, TTY Number: (423) 545–4559

HUD—Midwest Area

Illinois State Office

Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 353–5680, TTY Number: (312) 353–5944

Indiana State Office

151 North Delaware Street, Indianapolis, IN 46204–2526, (317) 226–6303, TTY Number: (317) 226–7081

Michigan State Office

Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226–2592, (313) 226–7900, TTY Number: (313) 226–6899

Minnesota State Office

220 Second Street, South, Minneapolis, MN 55401–2195, (612) 370–3000, TTY Number: (612) 370–3186

Ohio State Office

200 North High Street, Columbus, OH 43215–2499, (614) 469–5737, TTY Number: (614) 469–6694

Wisconsin State Office

Suite 1380, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2289, (414) 297–3214, TTY Number: (414) 297–3123

Cincinnati Area Office

525 Vine Street, Seventh Floor, Cincinnati, OH 45202–3188, (513) 684–2884, TTY Number: (513) 684–6180

Cleveland Area Office

Fifth Floor, Renaissance Building, 1350 Euclid Avenue, Cleveland, OH 44115–1815, (216) 522–4065, TTY Number: (216) 522–2261

Grand Rapids Area Office

Trade Center Building, Third Floor, 50 Louis Street, NW, Grand Rapids, MI 49503–2648, (616) 456–2100, TTY Number: (616) 456–2159

HUD—Southwest Area

Arkansas State Office

Suite 900, TCBY Tower, 425 West Capitol Avenue, Little Rock, AR 72201–3488, (501) 324–5931, TTY Number: (501) 324–5931

Louisiana State Office

Ninth Floor, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3099, (504) 589–7200, TTY Number: (504) 589–7279

Oklahoma State Office

500 Main Plaza, 500 West Main Street, Suite 400, Oklahoma City, OK 73102–2233, (405) 553–7400, TTY Number: (405) 553–7480

Texas State Office

1600 Throckmorton Street, P.O. Box 2905, Fort Worth, TX 76113–2905, (817) 978–9000, TTY Number: (817) 978–9273

Houston Area Office

Suite 200, Norfolk Tower, 2211 Norfolk, Houston, TX 77098–4096, (713) 313–2274, TTY Number: (713) 834–3274

San Antonio Area Office

Washington Square, 800 Dolorosa Street, San Antonio, TX 78207–4563, (210) 472–6800, TTY Number: (210) 472–6885

HUD—Great Plains

Iowa State Office

Room 239, Federal Building, 210 Walnut Street, Des Moines, IA 50309–2155, (515) 284–4512, TTY Number: (515) 284–4728

Kansas/Missouri State Office

Room 200, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101–2406, (913) 551–5462, TTY Number: (913) 551–6972

Nebraska State Office

Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154–3955, (402) 492–3100, TTY Number: (402) 492–3183

Saint Louis Area Field Office

Third Floor, Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103–2836, (314) 539–6583, TTY Number: (314) 539–6331

HUD—Rocky Mountains Area

Colorado State Office

633 17th Street, Denver, CO 80202–3607, (303) 672–5440, TTY Number: (303) 672–5248

HUD—Pacific/Hawaii Area

Arizona State Office

Suite 1600, Two Arizona Center, 400 North 5th Street, Phoenix, AZ 85004–2361, (602) 379–4434, TTY Number: (602) 379–4464

California State Office

Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448, (415) 436–6532, TTY Number: (415) 436–6594

Hawaii State Office

Suite 500, 7 Waterfront Plaza, 500 Ala Moana Boulevard, Honolulu, HI 96813–4918, (808) 522–8175, TTY Number: (808) 522–8193

Los Angeles Area Office

1615 West Olympic Boulevard, Los Angeles, CA 90015–3801, (213) 894–8000, TTY Number: (213) 894–8133

Sacramento Area Office

Suite 200, 777 12th Street, Sacramento, CA 95814–1997, (916) 498–5220, TTY Number: (916) 498–5959

HUD—Northwest/Alaska Area

Alaska State Office

Suite 401, University Plaza Building, 949 East 36th Avenue, Anchorage, AK 99508–4399, (907) 271–4170, TTY Number: (907) 271–4328

Oregon State Office

400 Southwest Sixth Avenue, Suite 700, Portland, OR 97204–1632, (503) 326–2561, TTY Number: (503) 326–3656

Washington State Office

Suite 200, Seattle Federal Office Building, 909 First Avenue, Seattle, WA 98104–1000, (206) 220–5101, TTY Number: (206) 220–5185

[FR Doc. 97–13728 Filed 5–23–97; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Tuesday
May 27, 1997

Part III

Department of Housing and Urban Development

Funding Availability (NOFA) for Supportive Housing for Persons With Disabilities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4231–N–01]

Notice of Funding Availability (NOFA) for Supportive Housing for Persons With Disabilities

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability for Fiscal Year (FY) 1997.

SUMMARY: This NOFA announces HUD's funding for supportive housing for persons with disabilities. This document describes the following: (a) The purpose of the NOFA and information regarding eligibility, submission requirements, available amounts, and selection criteria; and (b) application processing, including how to apply and how selections will be made.

APPLICATION PACKAGE: The Application Package can be obtained from the Multifamily Housing Clearinghouse, P.O. Box 6424, Rockville, MD 20850, telephone 1–800–685–8470 (the TTY number is 1–800–483–2209), from the appropriate HUD Office identified in Appendix B to this NOFA and also appears under the HUD Homepage on the Internet which can be accessed under ''Development'' at http://www.hud.gov/fha/fhamf.html. The Application Package includes a checklist of exhibits and steps involved in the application process.

DATES: The deadline for receipt of applications in response to this NOFA is 4:00 p.m. local time on July 28, 1997. The application deadline is firm as to *date* and *hour.* In the interest of fairness to all applicants, HUD will not consider any application that is received after the deadline. Sponsors should take this into account and submit applications as early as possible to avoid the risk of unanticipated delays or delivery-related problems. In particular, Sponsors intending to mail applications must provide sufficient time to permit delivery on or before the deadline date. Acceptance by a Post Office or private mailer does not constitute delivery. Facsimile (FAX), COD, and postage due applications will not be accepted.

ADDRESSES: Applications must be delivered to the Director of the Multifamily Housing Division in the HUD Office for your jurisdiction. A listing of HUD Offices, their addresses, and telephone numbers, including TTY numbers, is attached as Appendix B to this NOFA. HUD will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with an acknowledgement of receipt.

FOR FURTHER INFORMATION CONTACT: The HUD Office for your jurisdiction, as listed in Appendix B to this NOFA.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB Control Number 2502–0267. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

On April 8, 1997, HUD published in the **Federal Register** the NOFA for Continuum of Care Assistance. On April 10, 1997, HUD published the NOFA for Rental Assistance for Persons with Disabilities in Support of Designated Housing Allocation Plans, and the NOFA for Mainstream Housing Opportunities for Persons with Disabilities. On April 18, 1997, HUD published the NOFA for the Family Unification Program. On May 7, 1997, HUD published the NOFA for Housing Opportunities for Persons with AIDS. Other NOFAs related to special populations include the NOFA for the Section 202 Program of Supportive Housing for the Elderly which is published elsewhere in today's **Federal Register** and the NOFA for Service Coordinator Funds which HUD expects to publish within the next few weeks.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

I. Purpose and Substantive Description

A. Authority

Section 811 of the Cranston-Gonzalez National Affordable Housing Act (the NAHA) (Pub. L. 101–625, approved November 28, 1990), as amended by the Housing and Community Development Act of 1992) (HCD Act of 1992) (Pub. L. 102–550, approved October 28, 1992), and by the Rescissions Act (Pub. L. 104–19, approved July 27, 1995) authorized a new supportive housing program for persons with disabilities, and replaced assistance for persons with disabilities previously covered by section 202 of the Housing Act of 1959 (section 202 continues, as amended by section 801 of the NAHA, and the HCD Act of 1992, to authorize supportive housing for the elderly). HUD provides the assistance as capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances may be used to finance the construction, rehabilitation, or acquisition with or without rehabilitation, including acquisition from the Federal Deposit Insurance Corporation (formerly held by the Resolution Trust Corporation) (FDIC/RTC), of structures to be developed into a variety of housing options ranging from group homes and independent living facilities, to dwelling units in multifamily housing developments, condominium housing, and cooperative housing. This assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to

expand the supply of supportive housing for persons with disabilities.

Note that on March 22, 1996, HUD published a final rule (61 FR 11948) that consolidated the regulations for the Section 202 Program of Supportive Housing for the Elderly and the Section 811 Program of Supportive Housing for Persons with Disabilities in 24 CFR part 891.

For supportive housing for persons with disabilities, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, approved September 26, 1996, (the Act) provides $194,000,000 for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the NAHA, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities, as authorized by section 811 of the NAHA. Up to twenty-five percent of this amount is being set aside for tenant-based rental assistance administered through public housing agencies (PHAs) for persons with disabilities and was announced through a separate notice in the **Federal Register** on April 10, 1997 at 62 FR 17666.

In accordance with the waiver authority provided in the Act, the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance contract is reduced from 20 years to a minimum term of 5 years and a maximum term which can be supported by funds authorized by the Act. The Department anticipates that at the end of the contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, the Department will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

In accordance with an agreement between HUD and the Rural Housing Service (RHS) to coordinate the administration of the agencies' respective rental assistance programs, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concern about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider the RHS comments in its review and project selection process.

B. Allocation Amounts

In accordance with 24 CFR part 791, the Assistant Secretary for Housing has allocated the funds available for capital advances for supportive housing for persons with disabilities based on fair share factors developed by the Assistant Secretary for Policy Development and Research. HUD reserves project rental assistance funds based upon 75 percent of the current operating cost standards to support the units selected for capital advances sufficient for minimum 5-year project rental assistance contracts.

The allocation formula for Section 811 funds consists of two data elements from the 1990 Decennial Census: (1) The number of non-institutionalized persons age 16 or older with a work disability and a mobility or self-care limitation and (2) the number of non-institutionalized persons age 16 or older having a mobility or self-care limitation but having no work disability.

A work disability is defined as a health condition that had lasted for 6 or more months which limited the kind (restricted the choice of jobs) or amount (not able to work full time) of work a person could do at a job or business. A mobility limitation is defined as a health condition that had lasted for 6 or more months which made it difficult for the person to go outside the home alone; including outside activities such as shopping or visiting a doctor's office. A self-care limitation is defined as a health care limitation that had lasted for 6 or more months which made it difficult for the person to take care of his/her own personal needs such as dressing, bathing, or getting around inside the home. Temporary (short term) problems such as broken bones that are expected to heal normally are not considered problems.

The fair share factors were developed by taking the sum of the number of persons in each of the two elements for each state, or state portion, of each local HUD Office jurisdiction as a percent of the sum of the two elements for the total United States. The resulting percentage for each local HUD Office is then adjusted to reflect the relative cost of providing housing among the local HUD Office jurisdictions. The adjusted needs percentage for each local HUD Office is then multiplied by the total amount of capital advance funds available nationwide.

The Section 811 capital advance funds have been allocated, based on the formula above, to 51 local HUD Offices as shown on the following chart:

FISCAL YEAR 1997 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

[Fiscal Year 1997 Section 811 Allocations]

Office	Capital Advance Authority	Units
New England:		
Massachusetts	1,760,484	23
Connecticut	1,304,199	17
New Hampshire	623,105	10
Rhode Island	775,704	10
Total	4,463,492	60
New York/New Jersey:		
New York	3,760,413	48
Buffalo	1,472,240	20
Newark	2,230,026	29
Total	7,462,679	97
Mid-Atlantic:		
Maryland	1,175,695	18
West Virginia	961,713	16
Pennsylvania	2,267,878	31
Pittsburgh	1,285,018	20
Virginia	1,089,612	20
D.C.	1,230,690	18
Total	8,010,606	123
Southeast/Caribbean:		
Georgia	1,469,222	26
Alabama	1,226,365	22
Caribbean	1,553,987	20
South Carolina	1,173,059	20
North Carolina	1,903,273	27
Mississippi	966,271	19
Jacksonville	2,679,429	45
Kentucky	1,202,854	20
Knoxville	837,851	16
Tennessee	919,871	17
Total	13,932,182	232
Midwest:		
Illinois	2,791,293	36
Cincinnati	948,806	16
Cleveland	1,551,613	23
Ohio	947,399	16
Michigan	1,795,591	26
Grand Rapids	581,778	10
Indiana	1,355,506	22
Wisconsin	1,251,414	18
Minnesota	1,206,022	17
Total	12,429,422	184
Southwest:		
Texas/New Mexico	1,594,725	29
Houston	1,157,042	21
Arkansas	849,164	17
Louisiana	1,169,249	22
Oklahoma	920,315	17
San Antonio	1,028,659	20
Total	6,719,154	126
Great Plains:		
Iowa	568,850	10
Kansas/Missouri	1,092,921	19
Nebraska	552,689	10
St. Louis	1,165,599	18
Total	3,380,059	57
Rocky Mountain:		
Colorado	1,277,277	21
Total	1,277,277	21

FISCAL YEAR 1997 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

[Fiscal Year 1997 Section 811 Allocations]

Office	Capital Advance Authority	Units
Pacific/Hawaii:		
Hawaii (Guam)	1,163,556	10
Los Angeles	3,897,954	51
Arizona	950,760	17
Sacramento	759,544	10
California	2,348,425	31
Total	9,120,239	119
Northwest/Alaska:		
Alaska	1,163,556	10
Oregon	1,112,336	17
Washington	1,255,089	18
Total	13,530,981	45
National Total	70,326,091	1,064

C. Eligibility

Nonprofit organizations that have a Section 501(c)(3) tax exemption from the Internal Revenue Service are the only eligible applicants under this program. A single Sponsor shall not request more units in a given HUD Office than permitted for that HUD Office in this NOFA.

D. Initial Screening, Technical Processing, and Selection Criteria

1. Initial Screening

HUD will review applications for section 811 capital advances that HUD receives at the appropriate address by 4:00 p.m. local time on July 28, 1997 to determine if all parts of the application are included. HUD will not review the content of the application as part of initial screening. HUD will send deficiency letters by certified mail, informing Sponsors of any missing parts of the application. Sponsors must correct such deficiencies within 8 calendar days from the date of the deficiency letter. Any document requested as a result of the initial screening may be executed or prepared within the deficiency period, except for Forms HUD–92016–CAs, Articles of Incorporation, IRS exemption rulings, Forms SF–424, Board Resolution committing the minimum capital investment, and site control documents (all of these excepted items must be dated no later than the application deadline date).

2. Technical Processing

All applications will be placed in technical processing upon receipt of the response to the deficiency letter or at the end of the 8-day period. All applications will undergo a complete analysis based upon the information submitted in the application, including that submitted in response to the deficiency letter. If a reviewer finds that clarification of information submitted in the application is needed to complete the review or an exhibit is missing that was not requested after initial screening, the reviewer shall immediately advise the Multifamily Housing Representative, who will: (a) Request, by telephone, that the Sponsor submit the information within five (5) working days; and (b) follow up by certified letter. As part of this analysis, HUD will conduct its environmental review in accordance with 24 CFR part 50 only on those applications containing satisfactory evidence of site control. (Applications selected with sites identified will receive environmental reviews after submission to HUD of satisfactory evidence of site control and prior to approval of the sites.)

Technical processing will also assure that the Sponsor has complied with the requirements in the civil rights certification in the Application Package. There must not have been an adjudication of a civil rights violation in a civil action brought against the Sponsor, unless the Sponsor is operating in compliance with a court order, or implementing a HUD-approved compliance agreement designed to correct the areas of noncompliance. There must be no pending civil rights suits against the Sponsor instituted by the Department of Justice, and no pending administrative actions for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act). There must be no outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, nor any charges issued by the Secretary against the Sponsor under the Fair Housing Act, unless the Sponsor is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance. Moreover, there must not be a deferral of the processing of applications from the Sponsor imposed by HUD under Title VI of the Civil Rights Act of 1964, HUD's implementing regulations (24 CFR 1.8), procedures (HUD Handbook 8040.1), and the Attorney General's Guidelines (28 CFR 50.3); or under section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations (24 CFR 8.57), and the Americans with Disabilities Act.

Examples of reasons for technical processing rejection include an ineligible Sponsor, ineligible population to be served, lack of legal capacity, outstanding or pending civil rights findings/violations, insufficient need for the project, insufficient evidence that the Sponsor will obtain control of the identified site within six months of fund reservation award if the Sponsor did not submit site control evidence with its application, the project will adversely affect other HUD insured and/or assisted housing or an unsatisfactory Supportive Services Certification by the appropriate State or local agency.

The Secretary will not reject an application based on technical processing without giving notice of that rejection with all rejection reasons and affording the applicant an opportunity to appeal. HUD will afford an applicant 10 calendar days from the date of HUD's written notice to appeal a technical rejection to the HUD Office. The HUD Office must respond within five (5) working days to the Sponsor. The HUD Office shall make a determination on an appeal prior to making its selection recommendations. All applications will be either rated or technically rejected at the end of technical processing.

Upon completion of technical processing, all acceptable applications will be rated according to the selection criteria in section I.D.3. below. Applications that have a total base score of 60 points or more (without the addition of bonus points) will be eligible for selection and will be placed in rank order. These applications, after adding any bonus points, will be selected based on rank order to and including the last application that can be funded out of each local HUD Office's allocation. HUD Offices shall not skip over any applications in order to select one based on the funds remaining. However, after making the initial selections, any residual funds may be utilized to fund the next rank-ordered application by reducing the units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, projects of nine units or less may not be reduced.

Funds remaining after this process is completed will be returned to Headquarters. These funds will be used first to restore units to projects reduced by HUD Offices as a result of the instructions above and, second, for selecting applications on a national rank order. No more than one application will be selected per HUD Office from the national residual amount unless there are insufficient approvable

applications in other HUD Offices. If funds still remain, additional applications will be selected based on a national rank order, insuring an equitable distribution among HUD Offices.

3. Selection Criteria (Base Points)

HUD will rate applications for Section 811 capital advances that successfully complete technical processing using the following selection criteria set forth below, and the guidelines set forth in Appendix A to this NOFA):

(a) The Sponsor's ability to develop and operate the proposed housing on a long-term basis, considering the following (57 points maximum):

(1) The scope, extent, and quality of the Sponsor's experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity as well as its financial management capability. (32 points);

(2) The scope, extent, and quality of the Sponsor's experience in providing housing or related services to minority persons or families (10 points). For purposes of this NOFA ''minority'' means the basic racial and ethnic categories for Federal statistics and administrative reporting, as defined in OMB's Statistical and Policy Directive No. 15. (See 60 FR 44673, at 44692, August 28, 1995.);

(3) The extent of local government support for the project (5 points);

(4) The extent of the Sponsor's activities in the community, including previous experience in serving the area where the project is to be located, and the Sponsor's demonstrated ability to raise local funds (10 points);

(b) The need for supportive housing for persons with disabilities in the area to be served, suitability of the site, and the design of the project, considering (43 points maximum):

(1) The extent of the need for the project in the area based on a determination by the HUD Office. This determination will be made by considering the Sponsor's evidence of need in the area, as well as other economic, demographic, and housing market data available to the HUD Office. The data could include the availability of existing Federally assisted housing (HUD and RHS) (e.g., considering availability and vacancy rates of public housing) for persons with disabilities and current occupancy in such facilities, Federally assisted housing for persons with disabilities under construction or for which fund reservations have been issued, and, in accordance with an agreement between HUD and RHS, comments from RHS on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area (8 points);

(2) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended tenants; adequacy of utilities and streets, and freedom of the site from adverse environmental conditions (site control projects only); and compliance with the site and neighborhood standards (15 points);

(3) Suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minority persons with disabilities and affirmatively furthering fair housing (10 points); and

(4) The extent to which the proposed design will meet any special needs of persons with disabilities the housing is expected to serve (10 points).

4. Selection Criteria (Bonus Points)

(a) Applications submitted by Sponsors whose boards are comprised of at least 51 percent persons with disabilities (including persons who have similar disabilities to those of the prospective residents) (5 bonus points);

(b) The Sponsor's involvement of persons with disabilities (including minority persons with disabilities) in the development of the application, and its intent to involve persons with disabilities (including minority persons with disabilities) in the development and operation of the project (5 bonus points).

(c) Applications containing acceptable evidence of control of an approvable site (10 bonus points);

(d) The project will be located within the boundaries of a Federally-designated Empowerment Zone, Urban Supplemental Empowerment Zone, Enterprise Community, or an Urban Enhanced Enterprise Community (5 bonus points).

The maximum number of points an application can earn without bonus points is 100. An application can earn an additional 25 bonus points for a maximum total of 125 points.

II. Application Process

All applications for Section 811 capital advances submitted by eligible Sponsors must be filed with the appropriate HUD Office receiving an allocation and must meet the requirements of this NOFA. No application will be accepted after 4:00 p.m. local time on July 28, 1997 unless that date and time is extended by a Notice published in the **Federal Register**. HUD will not accept applications received after that date and time, even if postmarked by the deadline date. Applications submitted by facsimile are not acceptable.

Immediately upon publication of this NOFA, if HUD Offices have not already provided names to the Multifamily Housing Clearinghouse, the Offices shall notify minority media and media for persons with disabilities, all persons and organizations on their mailing lists, minority and other organizations within their jurisdiction involved in housing and community development, the State Independent Living Council, the local Center for Independent Living and other groups with special interest in housing for disabled households.

Organizations interested in applying for a Section 811 capital advance should contact the Multifamily Housing Clearinghouse at 1–800–685–8470 (the TTY number is 1–800–483–2209) for a copy of the Application Package, and advise the appropriate HUD Office if they wish to attend the workshop described below. HUD encourages minority organizations to participate in this program as Sponsors. HUD Offices will advise all organizations on their mailing list of the date, time, and place of workshops at which HUD will explain the Section 811 program.

HUD strongly recommends that prospective applicants attend the local HUD Office workshop. Interested persons with disabilities should contact the HUD Office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop. At the workshops, HUD will distribute Application Packages and explain application procedures and requirements. Also, HUD will address concerns such as local market conditions, building codes and accessibility requirements, historic preservation, floodplain management, displacement and relocation, zoning, and housing costs.

If Sponsors cannot attend a workshop, Application Packages can also be obtained from the Multifamily Housing Clearinghouse (see address and telephone number in the ''Application Package'' section, above). However, Sponsors who cannot attend the workshops are strongly encouraged to contact the appropriate HUD Office with any questions regarding the submission of applications to that particular office

and to request any materials distributed at the workshop.

III. Application Submission Requirements

A. Application

Each application shall include all of the information, materials, forms, and exhibits listed in section III.B., below, of this NOFA (with the exception of applications submitted by Sponsors selected for a Section 811 fund reservation within the last three funding cycles), and must be indexed and tabbed. Such previously selected Section 811 Sponsors are not required to submit the information described in B.2. (a), (b), and (c), below, of this NOFA (Exhibits 2. a., b., and c. of the application), which are the articles of incorporation (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of the eligibility documents since its previous HUD approval, the Sponsor must submit the updated information in its application. The HUD Office will base its determination of the eligibility of a new Sponsor for a reservation of Section 811 capital advance funds on the information provided in the application. HUD Offices will verify a Sponsor's indication of previous HUD approval by checking the project number and approval status with the appropriate HUD Office.

In addition to this relief of paperwork burden in preparing applications, applicants will be able to use information and exhibits previously prepared for prior applications under Section 811, Section 202, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs; applicant experience in the provision of housing and services; supportive services plan; community ties; and experience serving minorities.

B. General Application Requirements

Note: A Sponsor may apply for a scattered site project in one application.

1. Form HUD–92016–CA, Application for Section 811 Supportive Housing Capital Advance.

2. Evidence of each Sponsor's legal status as a nonprofit organization, including the following:

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS section 501(c)(3) tax exemption ruling (this must be submitted by all Sponsors, including churches).

Note: Sponsors who have received a Section 811 fund reservation within the last three funding cycles are not required to submit the documents described in (a), (b), and (c), above. Instead, sponsors must submit the project number of the latest application submitted and the HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.

(d) A resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner and that includes a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term.

(e) The number of people on the Sponsor's board and the number of those people who have disabilities (including disabilities similar to those of the prospective residents).

3. Sponsor's purpose, community ties, and experience, including the following:

(a) A description of Sponsor's purpose, current activities and how long it has been in existence;

(b) A description of Sponsor's ties to the community at large and to the minority and disabled communities in particular;

(c) A description of local government support (including financial support and services);

(d) Letters of support for the Sponsor and for the proposed project from organizations familiar with the housing and supportive services needs of the persons with disabilities that the Sponsor expects to serve in the proposed project;

(e) A description of Sponsor's housing and/or supportive services experience. The description should include any rental housing projects (including integrated housing developments) and/or supportive services facilities sponsored, owned, and operated by the Sponsor, the Sponsor's past or current involvement in any programs other than housing that demonstrates the Sponsor's management capabilities (including financial management) and experience, and the Sponsor's experience in serving persons with disabilities and minorities; and the reasons for receiving any increases in fund reservations for developing and/or operating any previously funded projects.

(f) A description of Sponsor's participation in joint ventures and experience in contracting with minority-owned businesses, women-owned businesses, and small businesses over the last three years, including a description of the joint venture, partners and the Sponsor's involvement and a summary of the total contract amounts awarded in each of the three categories for the preceding three years, and the percentage that amount represents of all contracts awarded by the Sponsor in the relevant time period;

(g) A certified Board Resolution acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed $10,000), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance;

(h) A description, if applicable, of the Sponsor's efforts to involve persons with disabilities (including minority persons with disabilities and persons with disabilities similar to those of the prospective residents) in the development of the application and in the development and operation of the project.

4. Project information including the following:

(a) Evidence of need for supportive housing. An identification of the proposed population and evidence demonstrating sustained effective demand for supportive housing for the proposed population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing Federally assisted housing for persons with disabilities (HUD and RHS; e.g., public housing), State or local needs assessments of persons with disabilities in the area, the types of supportive services arrangements currently available in the area, and the use of such services as evidenced by data from local social service agencies.

(b) A description of the project, including the following:

(1) Number and type of structure(s), number of bedrooms if group home, number of units with bedroom distribution if independent living units (including condos), number of residents

with disabilities, and any resident staff per structure.

(2) An identification of all community spaces, amenities, or features planned for the housing. A description of how the spaces, amenities, or features will be used, and the extent to which they are necessary to accommodate the needs of the proposed residents. If these community spaces, amenities, or features would not comply with the project design and cost standards of § 891.120 and the special project standards of § 891.310, the Sponsor must demonstrate its ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features; and

(3) A description of whether and how the project will promote energy efficiency, and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(c) A supportive services plan (a copy of which must be sent to the appropriate State or local agency as instructed in section IV.C., below, of this NOFA) that includes:

(1) A detailed description of whether the housing is expected to serve persons with physical disabilities, developmental disabilities or chronic mental illness. Include how and from whom/where persons will be referred to and admitted for occupancy in the project. The Sponsor may, with the approval of the Secretary, limit occupancy within housing developed under this NOFA to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment. However, the Owner must permit occupancy by any qualified person with a disability who could benefit from the housing and/or services provided, regardless of the person's disability.

If the Sponsor is requesting approval to limit occupancy in its proposed project(s), it must submit the following:

(i) A description of the population of persons with disabilities to which occupancy will be limited;

(ii) An explanation of why it is necessary to limit occupancy of the proposed project(s) to the population described in (i) above. This should include but is not limited to:

(A) An explanation of how limiting occupancy to a subcategory of persons with disabilities promotes the goals of the Section 811 program; and,

(B) An explanation of why the housing and/or service needs of this population cannot be met in a more integrated setting;

(iii) A description of the Sponsor's experience in providing housing and/or supportive services to the proposed occupants; and

(iv) A description of how the Sponsor will ensure that the occupants of the proposed project(s) will be integrated into the neighborhood and surrounding community.

(2) A detailed description of the supportive service needs of the persons with disabilities that the housing is expected to serve.

(3) The Sponsor shall develop, and submit with its application, a list of community service providers, including those that are consumer controlled, and include letters of intent to provide services to residents of the proposed project(s) from as many potential service providers as possible. This list shall be made available to any residents who wish to be responsible for acquiring their own supportive services. However, a provider may not require residents to participate in any particular service.

(4) A detailed description of a comprehensive supportive services plan organized by the Sponsor for those residents who do not wish to take responsibility for acquiring their own services. Such a plan must include the following:

(i) The name(s) of the agency(s) that will be responsible for providing the supportive services;

(ii) The evidence of each service provider's (applicable even if the service provider will be the Sponsor) capability and experience in providing such supportive services;

(iii) A description of how, when, how often, and where (on/off-site) the services will be provided;

(iv) Identification of the extent of State and local funds to assist in the provision of supportive services;

(v) Letters of intent from service providers (including those that are consumer-controlled) or funding sources, indicating commitments to fund or to provide the supportive services, or that a particular service will be available to proposed residents. If the Sponsor will be providing any supportive services or will be coordinating the provision of any of the supportive services, a letter indicating its commitment to either provide the supportive services or ensure their provision for the life of the project;

(vi) If any State or local government funds will be provided, a description of the State or local agency's philosophy/policy concerning housing for the population to be served, and a demonstration by the Sponsor that the application is consistent with State or local plans and policies governing the development and operation of housing for the same disabled population.

(5) A description of residential staff, if needed;

(6) Assurances that if the proposed residents choose to receive supportive services organized by the Sponsor they will be provided based on the residents' individual needs.

(7) A statement indicating the Sponsor's commitment that it will not condition occupancy on the resident's acceptance of any supportive services.

(d) Supportive Services Certification. A certification from the appropriate State or local agency identified in the Application Package indicating whether: (1) the provision of supportive services is well designed to serve the needs of persons with disabilities the housing is expected to serve, (2) whether the supportive services will be provided on a consistent, long-term basis, and (3) whether the proposed housing is consistent with State or local plans and policies governing the development and operation of housing to serve individuals of the proposed occupancy category. (The name, address, and telephone number of the appropriate agency will be identified in the Application Package and can also be obtained from the appropriate HUD Office.)

(e) Evidence of control of an approvable site, OR identification of a site for which the Sponsor provides reasonable assurances that it will obtain control within 6 months from the date of fund reservation (if Sponsor is approved for funding).

(1) If the Sponsor has control of the site, it must submit the following information:

(i) Evidence that the Sponsor has entered into a legally binding option agreement (which extends through the end of the current fiscal year and contains a renewal provision so that the option can be renewed for at least an additional six months) to purchase or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold, a request with all supporting documentation, submitted either prior to or with the Application for Capital Advance, for a partial release of a site covered by a mortgage under a HUD program, or other evidence of legal ownership of the site (including properties to be acquired from the FDIC/RTC). The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered

into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of Section 811 capital advance, and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines that the time constraints of the funding round will not permit all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, a letter in the application from the mayor or director of the appropriate local agency indicating their approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the HUD Office if it has satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the Section 811 project or from any other development team member.

(ii) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for belief that the proposed action will be completed successfully before the submission of the firm commitment application (e.g., a summary of the results of any requests for rezoning on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, etc.).

(iii) A narrative topographical and demographic description of the suitability of the site and area as well as a description of the area surrounding the site, the characteristics of the neighborhood, how the site will promote greater housing opportunities for minority persons with disabilities thereby affirmatively furthering fair housing.

(iv) A statement that the Sponsor is willing to seek a different site if the preferred site is unapprovable and that site control will be obtained within six months of notification of fund reservation.

(v) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

(vi) A Phase I Environmental Site Assessment, in accordance with the American Society for Testing and Material (ASTM) Standards E 1527–93, as amended. Since the Phase I study must be completed and submitted with the application, it is important that the Sponsor start the site assessment process as soon after publication of the NOFA as possible.

If the Phase I study indicates the possible presence of contamination and/or hazards, the Sponsor must decide whether to continue with this site or choose another site. Should the Sponsor choose another site, the same environmental site assessment procedure identified above must be followed for that site.

Note: For properties to be acquired from the FDIC/RTC, include a copy of the FDIC/RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the FDIC/RTC Environmental Guidelines.

If the Sponsor chooses to continue with the original site on which the Phase I study indicated contamination or hazards, then it must undertake a detailed Phase II Environmental Site Assessment by an appropriate professional. If the Phase II Assessment reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD Office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable Federal, State, and/or local agency with jurisdiction over the site. In order for the application to be considered for review under this FY 1997 funding competition, this information would have to be submitted to the local HUD Office *no later than 30 days after the application submission deadline date.*

Note: This could be an expensive undertaking. The cost of any clean-up and/or remediation must be borne by the sponsor.

(vii) A letter from the State Historic Preservation Officer indicating whether the proposed site(s) has any historical significance.

(viii) If an exception to the project size limits found in section IV.D., below, of this NOFA is being requested, describe why the site was selected and demonstrate the following:

(A) People with disabilities similar to those of the prospective tenants have indicated their acceptance or preference to live in housing with as many units/people as proposed for the project;

(B) The increased number of people is necessary for the economic feasibility of the project;

(C) The project is compatible with other residential development and the population density of the area in which the project is to be located;

(D) The increased number of people will not prohibit their successful integration into the community;

(E) The project is marketable in the community;

(F) The size of the project is consistent with State and/or local policies governing similar housing for the proposed population; and

(G) A statement that the Sponsor is willing to have its application processed at the project size limit should HUD not approve the exception.

(2) If the Sponsor has identified a site, but does not have it under control, it must submit the following information:

(i) A description of the location of the site, including its street address, its unit number (if condominium), neighborhood/community characteristics (to include racial and ethnic data), amenities, adjacent housing and/or facilities, and how the site will promote greater housing opportunities for minority persons with disabilities thereby affirmatively furthering fair housing;

(ii) A description of the activities undertaken to identify the site, as well as what actions must be taken to obtain control of the site, if approved for funding;

(iii) An indication as to whether the site is properly zoned. If it is not, an indication of the actions necessary for proper zoning and whether these can be accomplished within six months of fund reservation award, if approved for funding;

(iv) A status of the sale of the site; and

(v) An indication as to whether the site would involve relocation.

5. A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other HUD Office in response to this NOFA or the NOFA for the Section 202 program of Supportive Housing for the Elderly (published elsewhere in today's **Federal Register**). Indicate, by HUD Office, the number of units requested and the proposed location by city and State for each application. Include a list of all FY 1996 and prior year projects to which the Sponsor(s) is a party, identified by project number and HUD Office, which have not been finally closed.

6. HUD–2880, Applicant/Recipient Disclosure/Update Report including Social Security Numbers and Employer Identification Numbers.

7. Executive Order 12372. A certification that the Sponsor has submitted a copy of its application, if required, to the State agency (single

point of contact) for State review in accordance with Executive Order 12372.

8. A statement that: (a) Identifies all persons (families, individuals, businesses, and nonprofit organizations) by race/minority group and status as owners or tenants occupying the property on the date of submission of the application for a capital advance; (b) indicates the estimated cost of relocation payments and other services; (c) identifies the staff organization that will carry out the relocation activities; and (d) identifies all persons that have moved from the site within the last 12 months. (This requirement applies to applications with site control only. Sponsors of applications with identified sites that are selected will be required to submit this information at a later date once they have obtained site control.)

Note: If any of the relocation costs will be funded from sources other than the Section 811 Capital Advance, the Sponsor must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction and other project costs).

9. SF–424. A certification on SF–424, Application for Federal Assistance, that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

10. Certification Regarding Lobbying. The Sponsor must submit the certification required by 24 CFR Part 87. If the Sponsor has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR Part 87, the submission must also include SF–LLL, Disclosure of Lobbying Activities.

11. Certification of Consistency with the Consolidated Plan (Plan) for the jurisdiction in which the proposed project will be located must be submitted by the Sponsor. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the State, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan.

All certifications must be made by the public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in this NOFA. The Plan regulations are published in 24 CFR part 91.

12. Sponsor Certifications.

(a) A certification that the Sponsor will comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations at 24 CFR parts 100, 108, 109, and 110; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part 146; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR Chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) to the extent applicable; the affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and other applicable Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

(b) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(c) A certification that the project will comply with HUD's project design and cost standards and special project standards; the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40; section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8; and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100; and the Americans with Disabilities Act of 1990.

(d) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations at 49 CFR part 24, and 24 CFR 891.155(e).

(e) A certification by the Sponsor(s) that it will form an Owner (as defined in 24 CFR 891.305) after the issuance of the capital advance, will cause the Owner to file a request for determination of eligibility and a request for capital advance, and will provide sufficient resources to the Owner to insure the development and long-term operation of the project, including capitalizing the Owner at firm commitment processing in an amount sufficient to meet its obligations in connection with the project.

(f) A certification that the Sponsor will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in 24 CFR 891.325).

(g) A certification that the Sponsor will not require residents to accept any supportive services as a condition of occupancy.

IV. Additional Information

A. Development Cost Limits

(a) The following development cost limits, adjusted by locality as described in (b) below, shall be used to determine the capital advance amount to be reserved for projects for persons with disabilities:

(1) *For independent living facilities:* The total development cost of the property or project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features to be paid for by the Sponsor) may not exceed:

Non-elevator structures:
- $28,032 per family unit without a bedroom;
- $32,321 per family unit with one bedroom;
- $38,979 per family unit with two bedrooms;
- $49,893 per family unit with three bedrooms;
- $55,583 per family unit with four bedrooms.

For elevator structures:
- $29,500 per family unit without a bedroom;
- $33,816 per family unit with one bedroom;
- $41,120 per family unit with two bedrooms;
- $53,195 per family unit with three bedrooms;
- $58,392 per family unit with four bedrooms.

(2) *For group homes only:*

Number of residents	Type of disability	
	Physical/ developmental	Chronic Mental Illness
3	$128,710	$124,245
4	137,730	131,980
5	146,750	139,715
6	155,760	147,450

These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the minimum group home requirements of § 891.310(a); the

accessibility requirements of §§ 891.120(b) and 891.310(b); and the project design and cost standards of § 891.120.

(b) Increased development cost limits.

(1) HUD may increase the development cost limits set forth in paragraphs (a) (1) and (2) above by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis.

(2) If HUD finds that high construction costs in Alaska, Guam, Virgin Islands or Hawaii make it infeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in paragraphs (a)(1) and (2) of this section, the amount of capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

(3) For group homes only, HUD Offices may approve increases in the development cost limits in paragraph (a)(2) above, in areas where Sponsors can provide sufficient documentation that high land costs limit or prohibit project feasibility. An example of acceptable documentation is evidence of at least three land sales which have actually taken place (listed prices for land are not acceptable) within the last two years in the area where the project is to be built. The average cost of the documented sales must exceed seven percent of the development cost limit for which the project in question is eligible in order for an increase to be considered.

B. Sites

The National Affordable Housing Act requires Sponsors submitting applications for Section 811 fund reservations to provide either (a) evidence of site control, or (b) reasonable assurances that it will have control of a site within six months of notification of fund reservation. Accordingly, if a Sponsor has control of a site at the time it submits its application, it must include evidence of such as described in Section III.b.4.(e)(1) of this NOFA and in the Application Package. If it does not have site control, it must provide the information required in Section III.b.4.(e)(2) and in the Application Package for identified sites as a reasonable assurance that site control will be obtained within six months of fund reservation notification.

Sponsors may select a site different from the one(s) submitted in their original applications if the original site(s) is (are) not approvable. Selection of a different site will require HUD performance of an environmental review on the new site, which could result in rejection of that site. However, if a Sponsor does not have site control for any reason 12 months after notification of fund reservation, the assistance will be recaptured and reallocated.

Sponsors submitting satisfactory evidence of an approvable site (i.e., site control) will have 10 bonus points added to the rating of their applications. Sponsors submitting proper identification of a site will not be eligible for the 10 bonus points.

Applications containing evidence of site control where either the evidence or the site is not approvable will *not* be rejected provided the application indicates the Sponsor's willingness to select another site and an assurance that site control will be obtained within six months of fund reservation notification.

In the case of a scattered site application submitted with evidence of site control for some or all of the sites, all of the sites must have satisfactory evidence of site control and all of the sites must be approvable for the application to receive the 10 bonus points for site control.

C. Supportive Services

The National Affordable Housing Act requires Sponsors submitting applications for Section 811 fund reservations to include a supportive services plan and a certification from the appropriate State or local agency that the provision of services identified in the Supportive Services Plan is well designed to serve the special needs of persons with disabilities. Paragraph III.B.4.(c) above outlines the information that must be in the Supportive Services Plan. Sponsors must submit one copy of their Supportive Services Plan to the appropriate State or local agency well in advance of the application submission deadline date in order for the State or local agency to review the Supportive Services Plan and complete the Supportive Services Certification (Exhibit 4(d) of the Application Package) and return it to the Sponsor for inclusion with the application submission to HUD.

Since the appropriate State or local agency will review the Supportive Services Plan on behalf of HUD, the Supportive Services Certification will also indicate whether the Sponsor demonstrated that the supportive services will be provided on a consistent, long-term basis and whether the proposed housing is consistent with State or local policies or plans governing the development and operation of housing to serve individuals of the proposed occupancy category. If HUD receives an application in which the Supportive Services Certification is missing, is received by HUD after the deficiency period, or indicates any of the following: (1) The provision of services is *not* well designed to meet the special needs of persons with disabilities, (2) the Sponsor failed to demonstrate that the supportive services will be provided on a consistent, long-term basis, or (3) the proposed housing is *not* consistent with State or local agency's plans/policies governing the development and operation of housing to serve the proposed population and the agency will be a major funding or referral source for the proposed project or be responsible for licensing the project, the application shall be rejected.

Any prospective resident of a Section 811 project who believes he/she needs supportive services must be given the choice to be responsible for acquiring his/her own services or to take part in the Sponsor's Supportive Services Plan which must be designed to meet the individual needs of each resident. Sponsors may not require residents, as a condition of occupancy, to accept any supportive service.

D. Project Size Limits

1. *Group home*—The minimum number of persons with disabilities that can be housed in a group home is three and the maximum number is six, with one person per bedroom unless two residents choose to share one bedroom or a resident determines he/she needs another person to share his/her bedroom.

2. *Independent living facility*—The minimum number of units that can be applied for in one application is five; not necessarily in one structure. The maximum number of persons with disabilities that can be housed in an independent living facility is 18.

3. *Exceptions*—Sponsors may request an exception to the above project size limits by providing the information required in the Application Package and as outlined in section III. B. 4.(e)(1)(viii) above.

V. Other Matters

A. Environmental Impact

This NOFA provides funding under, and does not alter the environmental requirements of, regulations in 24 CFR part 891, which were published in the

Federal Register on March 22, 1996 (61 FR 11956). Accordingly, under 24 CFR 50.19(c)(5), as published in the **Federal Register** on September 27, 1996 (61 FR 50914, 50919), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The environmental review provisions of the Section 811 program regulations are in 24 CFR 891.155(b).

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that this NOFA does not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NOFA merely notifies the public of the availability of capital advances and project rental assistance for supportive housing for persons with disabilities. As a result, this NOFA is not subject to review under the Order.

C. Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published in the **Federal Register** (57 FR 1942) a notice that also provides information on the implementation of Section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

1. Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

2. Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form-2880) submitted in connection with this NOFA. Update reports (also Form-2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

D. Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of all successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are prohibited by part 4 from providing advance information to any person (other than an authorized person) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division (202) 708–3815 (This is not a toll-free number.) (To access this number by TTY, dial 1–800–877–8339). HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, should contact the appropriate Field Office Counsel, or Headquarters Counsel for the program to which the question pertains.

E. Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1991, (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments, and if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included in the Application Package.

The Lobbying Disclosure Act of 1995 (Public Law 104–65; approved December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

F. Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program title and number is 14.181, Supportive Housing for Persons with Disabilities.

Authority: Section 811, National Affordable Housing Act, as amended (42 U.S.C. 1803), Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 19, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

Appendix A

Guidelines for Rating Section 811 Applications FY 1997 Supportive Housing for Persons with Disabilities

DIRECTIONS: In applications proposing a Co-Sponsor, the Sponsor and Co-Sponsor are to be evaluated and scored separately. The higher score shall be awarded to the application.

The full range of numerical ratings should be used.

1. In determining the Sponsor's ability to develop and operate the proposed housing on a long-term basis, consider: 57 points maximum.

(MHR (a) & AM avg'd)—The scope, extent and quality of the Sponsor's experience in providing housing OR related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to the Sponsor's demonstrated development and management capacity and financial management capability (32 points maximum).

27–32 Points—Sponsor must have developed and operated at least one housing project comparable in scope to the project being applied for or provided related supportive services for at least five years for the proposed population and, demonstrated a consistent performance in timely development, effective marketing, and efficient management of housing and/or service delivery. Also, the Sponsor must not have received any unreasonable increases in fund reservations for developing and/or operating previously funded projects.

14–26 Points—Sponsor has at least three years experience in providing housing and/or supportive services for the proposed population and has demonstrated consistent performance in timely development, effective marketing, and efficient management of housing and/or service delivery.

1–13 Points—Sponsor has less than three years experience in providing either housing or supportive services for the proposed population, or has not consistently performed the development, marketing, and management of housing and/or service delivery.

(FHEO) (b)—The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families (10 points maximum).

10 points—Sponsor has significant previous experience in housing/serving minorities (i.e., previous housing assistance/related service to minorities was equal to or greater than the percentage of minorities in the jurisdiction where the previous housing/service experience occurred); *and* the Sponsor has ties to the minority community.

8–9 points—Sponsor has significant previous experience in housing/serving minorities. There is no evidence that the Sponsor has ties to the minority community.

5–7 points—Sponsor has minimal experience in housing/serving minorities (i.e., previous housing assistance/related service to minorities was less than the percentage of minorities in the jurisdiction where the previous housing/service experience occurred); *and* the Sponsor has ties to the minority community.

3–4 points—Sponsor has minimal experience in housing/serving minorities but the Sponsor does *not* have ties to the minority community.

1–2 points—The Sponsor does not have experience in housing/serving minorities, but the Sponsor has ties to the minority community.

0 points—None of the above.

(SEC (c) REP)—The extent of local government support for the project. (5 points maximum)

5 points—The application contains written evidence that the local government intends to provide financial assistance and community services to the proposed project and the project is consistent with the Consolidated Plan which shows a need for housing for persons with disabilities.

3 points—The application contains written evidence that the local government intends to provide community services to the proposed project and the project is consistent with the Consolidated Plan which shows a need for housing for persons with disabilities.

1 point—The Sponsor has enlisted some support in the community (i.e., letters of support from other agencies) for the proposed project and the project is consistent with the Consolidated Plan which shows a need for housing for persons with disabilities.

(MHR) (d)—The extent of the Sponsor's activities in the community, including previous experience in serving the area where the project is to be located, and Sponsor's demonstrated ability to raise local funds. (10 points maximum)

7–10 points—The Sponsor has provided extensive evidence of:

a. Sponsor's past history of serving the project locality (i.e., extent of its activities, period of involvement and the size of the population served); and,

b. Sponsor's fund-raising ability.

4–6 points—The Sponsor has provided documentation which demonstrates its previous experience in serving the project locality, and a good track record of private fund-raising in the community.

1–3 points—The Sponsor has limited experience in serving the area where the project is to be located, or in securing private funding in a community.

2. In determining the need for supportive housing for persons with disabilities in the area to be served, the suitability of the site, and the design of the project, consider: 43 points maximum.

Note: All references to ''site'' automatically include its plural form in the case of scattered site projects.

(EMAS) (a)—The extent of need for the project in the area based on a determination made by the HUD Office. This determination will be made by taking into consideration the Sponsor's evidence of need in the area, as well as other economic, demographic, and housing market data available to the HUD Office. (8 points maximum).

Note: This factor must be scored either 0 or 8 points.

(VAL) (b)—The proximity or accessibility of the site to shopping, medical facilities, places of employment, places of worship, transportation, recreational facilities, and other necessary services to the intended occupants, adequacy of utilities and streets and freedom of the site from adverse environmental conditions (site control projects only), and compliance with site and neighborhood standards. (15 points maximum).

Site Control Projects

10–15 points—All necessary services and facilities, including shopping facilities for daily necessities (groceries, toiletries and medicines), are within safe walking distance, *OR* are easily accessible by frequently operating public transportation or by transportation provided by the Sponsor.

Utilities and streets are available, adequate to serve the proposed use, and will require little or no off-site construction.

Permissive zoning is in place.

No filling is necessary; soil shows no evidence of instability; or, minimal grading is necessary to improve site drainage. Site is adequate in size, exposure, configuration, and topography with no special facilities required.

Site is free from all adverse environmental conditions, including hazardous conditions, and adequate fire and police protection is readily available.

Site is located in an area which does not have a concentration of housing in which occupancy is limited to persons with disabilities.

4–9 points—Some necessary services and facilities, including shopping facilities for daily necessities, are within safe walking distance OR are easily accessible by frequently operating public transportation or by transportation provided by the Sponsor. Streets and/or utilities can be made available to the site with moderate extensions.

Re-zoning is necessary and Sponsor provided a reasonable assurance that it will be accomplished with only minor extensions.

Some filling is necessary; soil shows some evidence of instability; or minor grading is necessary to improve site drainage. Site is adequate in size, exposure, configuration and topography with no special facilities required. Site is free from all *hazardous* environmental conditions, but some minor *adverse* conditions exist (e.g., higher than desirable noise level, or minimal air pollution). However, mitigation is possible without significant expenditures of time and expense. Adequate fire and police protection is readily available.

Site is located in an area which does not have a concentration of housing in which occupancy is limited to persons with disabilities.

1–3 points—Few necessary services and facilities, including shopping facilities for daily necessities are within safe walking distance. Description of the availability of public transportation or the willingness, capacity and plan of the Sponsor to provide transportation is vague.
Streets and/or utilities can be made available to the site only with significant extensions.
Re-zoning is necessary and the Sponsor provided a reasonable assurance that it will be accomplished with moderate extensions.
Moderate filling is necessary; soil shows evidence of instability; or moderate regrading is necessary to improve site drainage. Site is minimally acceptable in terms of size, exposure, configuration, drainage, and topography with some special facilities required. Site is free from all hazardous environmental conditions, but some minor adverse conditions exist (e.g., higher than desirable noise level, or minimal air pollution). However, mitigation is possible but with significant expenditures of time and expense. Adequate fire and police protection is readily available.
Site is located in an area which does not have a concentration of housing in which occupancy is limited to persons with disabilities.

Site Identified Projects

The site should be rated based upon the Sponsor's description and any information you have about the site and the surrounding area without benefit of a site visit.

10–15 points—All necessary services and facilities, including shopping facilities for daily necessities (groceries, toiletries and medicines), are within safe walking distance, *OR* are easily accessible by frequently operating public transportation or by transportation provided by the Sponsor.
Permissive zoning is in place.
Site is located in a community setting, will blend in with existing architecture, and will afford maximum integration of the proposed residents.
Site is located in an area which does not have a concentration of housing in which occupancy is limited to persons with disabilities.
4–9 points—Some necessary services and facilities, including shopping facilities for daily necessities, are within safe walking distance OR are easily accessible by frequently operating public transportation or by transportation provided by the Sponsor.
Re-zoning is necessary but Sponsor indicates that it will be accomplished with only minor extensions.
Site is located in a community setting, will blend in with existing architecture, and will afford maximum integration of the proposed residents.
Site is located in an area which does not have a concentration of housing in which occupancy is limited to persons with disabilities.
1–3 points—Few necessary services and facilities, including shopping facilities for daily necessities are within safe walking distance. Description of the availability of public transportation or the willingness, capacity and plan of the Sponsor to provide transportation is vague.
Re-zoning is necessary but the Sponsor indicated that it may take longer than six months beyond fund reservation award.
Site is located in an area which does not have a concentration of housing in which occupancy is limited to persons with disabilities.
(FHEO)(c)—Suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minority persons and affirmatively furthering fair housing. (10 points maximum)
The FHEO Rating Criterion for Factor 2 awards points considering the existence and location of existing housing for minority persons and whether a minority concentrated area has an unmet need for such housing in determining whether a site promotes housing choice.

Situation #1—Housing market area where there is no existing assisted housing for persons with disabilities and minority persons with disabilities (including Section 202, other Section 811 and low rent public housing projects). There is a need for such housing both inside and outside areas of minority concentration.

10 points—The site is located in a racially mixed area with a need for such housing.
8 points—The site is located in a non-minority area with a need for such housing.
5 points—The site is located in a minority concentrated area with a need for such housing. The Sponsor has comparable, rental units outside of the minority concentrated area that will be available to minority persons with disabilities through vacancies and/or turnover thus providing a housing choice to those minority persons with disabilities who live outside the minority community.
3 points—The site is located in a minority concentrated area with a need for housing. Sponsor does not have comparable rental units outside of the minority concentrated area.
0 points—None of the above. The site, although acceptable, does not promote a greater choice of housing opportunities for minority persons with disabilities.

Situation #2—Housing market area where there is existing assisted housing for minority persons with disabilities (including Section 202, other Section 811, low rent public housing and other assisted housing projects for minority persons with disabilities) and such housing is located in a non-minority area. There is an unmet need to house minority persons with disabilities in a minority concentrated area:

10 points—The site is located in a minority concentrated area with an unmet housing need for persons with disabilities and/or minority persons with disabilities.
8 points—The site is located in a racially mixed area bordering the minority concentrated area with an unmet need for housing minority persons with disabilities.
5 points—The site is located in a non-minority area but Sponsor has comparable, rental units in the minority concentrated area that will be available to minority persons with disabilities through vacancies and/or turnover, thus providing a housing choice to minority persons with disabilities who desire to remain in the minority community.
0 points—None of the above. The site, although acceptable, does not promote a greater choice of housing opportunities for minority persons with disabilities.

Situation #3—Housing market area where the existing housing for minority persons with disabilities is located in an area of minority concentration. There is still a housing need in the minority concentrated area, as well as in the community as a whole:

10 points—The site is located in a racially mixed area.
8 points—The site is located in a non-minority area.
5 points—The site is located in a minority area but Sponsor has comparable, rental units outside of the minority concentrated area that will be available to minority persons with disabilities (through vacancies and/or turnover), thus providing a housing choice to minority persons with disabilities who live outside the minority community.
0 points—None of the above. The site, although acceptable, does not promote a greater choice of housing opportunities for minority persons with disabilities.

Situation #4—Housing market area where few or no minorities live. (There are no or few areas of minority concentration.)

10 points—The site is located in a housing market area with a population of only a few minorities.
5 points—The site is located in a housing market area with a population of no minorities.

Situation #5—Housing market area where existing assisted housing for minority persons with disabilities is inside a minority concentrated area and also outside a minority concentrated area. Both areas have an unmet need for housing for minorities.

10 points—The site is located Outside and the majority of assisted housing is located inside.
10 points—The site is located Inside and the majority of assisted housing is located outside.
5 points—The site is located Outside and the majority of assisted housing is located outside.
5 points—The site is located Inside and the majority of assisted housing is located inside.

Situation #6—Housing market area where few or no non-minorities live. (There are no or few areas of non-minority concentration.)

10 points—The site is located in a housing market area with a population of only a few non-minorities.

5 points—The site is located in a housing market area with a population of no non-minorities.

(ARCH)(d)—The extent to which the proposed design will meet any special needs of persons with disabilities the housing is expected to serve. (10 points maximum)

6–10 points—Although the individual needs of the population to be served by the project are not known at this time, it is evident from the detailed narrative that the Sponsor has thoroughly thought out the design of the building(s) as well as anticipated the general design requirements of the prospective residents. As a result, the Sponsor indicates:

The proposed population does not require any special design features and there will not be any on-site services requiring special accommodations;

OR,

The proposed population will need certain design features and identifies each feature, its purpose, why it will be needed, its location and specifications as well as any other pertinent information. The features do not include prohibited amenities such as health care equipment.

1–5 points—The narrative is not detailed and only provides a sketchy description of the overall design of the building(s) and just lists special design features without providing any descriptive information about them. It is evident from the narrative that the Sponsor has not thoroughly thought out the design of the building(s) or the general design requirements of the prospective residents.

3. Bonus points

(MHR) (a)—The Sponsor's board is comprised of at least 51 percent persons with disabilities. (5 bonus points)

(MHR) (b)—The Sponsor has involved persons with disabilities (including minority persons with disabilities) in the development of the application and will involve persons with disabilities (including minority persons with disabilities) in the development and operation of the project. (5 bonus points)

The following criteria must be met to receive the 5 bonus points:

(1) The Sponsor met with persons with disabilities (including minority persons with disabilities) at least twice during preparation of the application to solicit comments;

(2) Drafts of the application were circulated to persons with disabilities (including minority persons with disabilities) for review prior to submission of the application to HUD;

(3) Sponsor discussed input received and whether or not it was accepted. If not accepted, the reasons why were provided; and

(4) Sponsor certifies that it will involve people with disabilities (including minority persons with disabilities) in the next stages of application processing if selected for funding, as well as in the development and operation of the project.

(VAL) (c)—The application contains acceptable evidence of control of an approvable site. (10 bonus points)

(CPD) (d)—The project will be located within the boundaries of a Federally designated Empowerment Zone, Urban Supplemental Empowerment Zone, Enterprise Community, or an Urban Enhanced Enterprise Community (5 bonus points)

Appendix B—HUD Offices

Note: The first line of the mailing address for all offices is U.S. Department of Housing and Urban Development. Telephone numbers listed are not toll-free.

HUD—New England Area

Connecticut State Office

First Floor, 330 Main Street, Hartford, CT 06106–1860, (203) 240–4523, TTY Number: (860) 240–4665

Massachusetts State Office

Room 375, Thomas P. O'Neill, Jr., Federal Building, 10 Causeway Street, Boston, MA 02222–1092, (617) 565–5234, TTY Number: (617) 565–5453

New Hampshire State Office

Norris Cotton Federal Building, 275 Chestnut Street, Manchester, NH 03101–2487, (603) 666–7681, TTY Number: (603) 666–7518

Rhode Island State Office

Sixth Floor, 10 Weybosset Street, Providence, RI 02903–3234, (401) 528–5351, TTY Number: (401) 528–5403

HUD—New York, New Jersey Area

New Jersey State Office

Thirteenth Floor, One Newark Center, Newark, NJ 07102–5260, (201) 622–7900, TTY Number: (201) 645–3298

New York State Office

26 Federal Plaza, New York, NY 10278–0068, (212) 264–6500, TTY Number: (212) 264–0927

Buffalo Area Office

Fifth Floor, Lafayette Court, 465 Main Street, Buffalo, NY 14203–1780, (716) 551–5755, TTY Number: (716) 551–5787

HUD—Midatlantic Area

District of Columbia Office

820 First Street, NE, Washington, D.C. 20002–4502, (202) 275–9200, TTY Number: (202) 275–0772

Maryland State Office

Fifth Floor, City Crescent Building, 10 South Howard Street, Baltimore, MD 21201–2505, (410) 962–2520, TTY Number: (410) 962–0106

Pennsylvania State Office

The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3390, (215) 656–0600, TTY Number: (215) 656–3452

Virginia State Office

The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, VA 23230–0331, (804) 278–4507, TTY Number: (804) 278–4501

West Virginia State Office

Suite 708, 405 Capitol Street, Charleston, WV 25301–1795, (304) 347–7000, TTY Number: (304) 347–5332

Pittsburgh Area Office

339 Sixth Avenue, Sixth Floor, Pittsburgh, PA 15222–2515, (412) 644–6428, TTY Number: (412) 644–5747

HUD—Southeast/Caribbean Area

Alabama State Office

Suite 300, Beacon Ridge Tower, 600 Beacon Parkway, West, Birmingham, AL 35209–3144, (205) 290–7617, TTY Number: (205) 290–7630

Caribbean Office

New San Juan Office Building, 159 Carlos Chardon Avenue, San Juan, PR 00918–1804, (787) 766–6121, TTY Number: (787) 766–5909

Georgia State Office

Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, GA 30303–3388, (404) 331–5136, TTY Number: (404) 730–2654

Kentucky State Office

601 West Broadway, P.O. Box 1044, Louisville, KY 40201–1044, (502) 582–5251, TTY Number: 1–800–648–6056

Mississippi State Office

Suite 910, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Jackson, MS 39269–1096, (601) 965–5308, TTY Number: (601) 965–4171

North Carolina State Office

Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407–3707, (919) 547–4001, TTY Number: (919) 547–4055

South Carolina State Office

Strom Thurmond Federal Building, 1835–45 Assembly Street, Columbia, SC 29201–2480, (803) 765–5592, TTY Number: (803) 253–3071

Tennessee State Office

Suite 200, 251 Cumberland Bend Drive, Nashville, TN 37228–1803, (615) 736–5213, TTY Number: (615) 736–2886

Jacksonville Area Office

Suite 2200, Southern Bell Tower, 301 West Bay Street, Jacksonville, FL 32202–5121, (904) 232–2626, TTY Number: (904) 232–1241

Knoxville Area Office

Third Floor, John J. Duncan Federal Building, 710 Locust Street, Knoxville, TN 37902–2526, (423) 545–4384, TTY Number: (423) 545–4559

HUD—Midwest Area

Illinois State Office

Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 353–5680, TTY Number: (312) 353–5944

Indiana State Office

151 North Delaware Street, Indianapolis, IN 46204–2526, (317) 226–6303, TTY Number: (317) 226–7081

Michigan State Office

Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226–2592, (313) 226–7900, TTY Number: (313) 226–6899

Minnesota State Office

220 Second Street, South, Minneapolis, MN 55401–2195, (612) 370–3000, TTY Number: (612) 370–3186

Ohio State Office

200 North High Street, Columbus, OH 43215–2499, (614) 469–5737, TTY Number: (614) 469–6694

Wisconsin State Office

Suite 1380, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2289, (414) 297–3214, TTY Number: (414) 297–3123

Cincinnati Area Office

525 Vine Street, Seventh Floor, Cincinnati, OH 45202–3188, (513) 684–2884, TTY Number: (513) 684–6180

Cleveland Area Office

Fifth Floor, Renaissance Building, 1350 Euclid Avenue, Cleveland, OH 44115–1815, (216) 522–4065, TTY Number: (216) 522–2261

Grand Rapids Area Office

Trade Center Building, Third Floor, 50 Louis Street, NW, Grand Rapids, MI 49503–2648, (616) 456–2100, TTY Number: (616) 456–2159

HUD—Southwest Area

Arkansas State Office

Suite 900, TCBY Tower, 425 West Capitol Avenue, Little Rock, AR 72201–3488, (501) 324–5931, TTY Number: (501) 324–5931

Louisiana State Office

Ninth Floor, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3099, (504) 589–7200, TTY Number: (504) 589–7279

Oklahoma State Office

500 Main Plaza 500, West Main Street, Suite 400, Oklahoma City, OK 73102–2233, (405) 553–7400, TTY Number: (405) 553–7480

Texas State Office

1600 Throckmorton Street, P.O. Box 2905, Fort Worth, TX 76113–2905, (817) 978–9000, TTY Number: (817) 978–9273

Houston Area Office

Suite 200, Norfolk Tower, 2211 Norfolk, Houston, TX 77098–4096, (713) 313–2274, TTY Number: (713) 834–3274

San Antonio Area Office

Washington Square, 800 Dolorosa Street, San Antonio, TX 78207–4563, (210) 472–6800, TTY Number: (210) 472–6885

HUD—Great Plains

Iowa State Office

Room 239, Federal Building, 210 Walnut Street, Des Moines, IA 50309–2155, (515) 284–4512, TTY Number: (515) 284–4718

Kansas/Missouri State Office

Room 200, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101–2406, (913) 551–5462, TTY Number: (913) 551–6972

Nebraska State Office

Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154–3955, (402) 492–3100, TTY Number: (402) 492–3183

Saint Louis Area Field Office

Third Floor, Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103–2836, (314) 539–6583, TTY Number: (314) 539–6331

HUD—Rocky Mountains Area

Colorado State Office

633 17th Street, Denver, CO 80202–3607, (303) 672–5440, TTY Number: (303) 672–5248

HUD—Pacific/Hawaii Area

Arizona State Office

Suite 1600, Two Arizona Center, 400 North 5th Street, Phoenix, AZ 85004–2361, (602) 379–4434, TTY Number: (602) 379–4464

California State Office

Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448, (415) 436–6532, TTY Number: (415) 436–6594

Hawaii State Office

Suite 500, 7 Waterfront Plaza, 500 Ala Moana Boulevard, Honolulu, HI 96813–4918, (808) 522–8175, TTY Number: (808) 522–8193

Los Angeles Area Office

1615 West Olympic Boulevard, Los Angeles, CA 90015–3801, (213) 251–7122, TTY Number: (213) 894–8133

Sacramento Area Office

Suite 200, 777 12th Street, Sacramento, CA 95814–1997, (916) 498–5220, TTY Number: (916) 498–5959

HUD—Northwest/Alaska Area

Alaska State Office

Suite 401, University Plaza Building, 949 East 36th Avenue, Anchorage, AK 99508–4399, (907) 271–4170, TTY Number: (907) 271–4328

Oregon State Office

400 Southwest Sixth Avenue, Suite 700, Portland, OR 97204–1632, (503) 326–2561, TTY Number: (503) 326–3656

Washington State Office

Suite 200, Seattle Federal Office Building, 909 First Avenue, Seattle, WA 98104–1000, (206) 220–5101, TTY Number: (206) 220–5185

[FR Doc. 97–13729 Filed 5–23–97; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Tuesday
May 27, 1997

Part IV

The President

Proclamation 7006—Prayer for Peace, Memorial Day 1997

Federal Register
Vol. 62, No. 101
Tuesday, May 27, 1997

Presidential Documents

Title 3—

The President

Proclamation 7006 of May 22, 1997

Prayer for Peace, Memorial Day, 1997

By the President of the United States of America

A Proclamation

The observance of Memorial Day is one of America's noblest traditions. At its core lies the most basic of the beliefs on which our Nation was founded: that freedom is so precious it is worth the price of our lives to preserve it.

Throughout our history, we have been blessed by the courage and commitment of Americans who were willing to pay that price, and more than 1.3 million of them have died for our Nation. From Lexington and Concord to Iwo Jima and the Persian Gulf, on fields of battle across America and around the world, our men and women in uniform have risked—and lost—their lives to protect America's interests, to advance the ideals of democracy, and to defend the liberty we hold so dear.

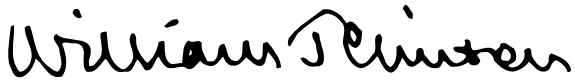
This spirit of selfless sacrifice is an unbroken thread woven through our history. Wherever they came from, whenever they served, our fallen heroes knew they were fighting to preserve our freedom. On Memorial Day we remember them, and we acknowledge that we stand as a great, proud, and free Nation because of their devotion.

But this is not the only day on which we honor their service and sacrifice. Whenever we lend our hearts and hands and voices to the work of peace in the world, whenever we show respect for the flag, cast a vote in an election, or exercise our freedoms of speech, assembly, and worship, we honor our fellow Americans who guaranteed those freedoms with their lives. In respect and recognition of these courageous men and women, the Congress, by joint resolution approved on May 11, 1950 (64 Stat. 158), requested that the President issue a proclamation calling upon the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the American people might unite in prayer.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Memorial Day, May 26, 1997, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to join in prayer. I urge the press, radio, television, and all other information media to take part in this observance.

I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff during this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control, and I request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.



[FR Doc. 97–14013
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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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●**3** (1996 Compilation and Parts 100 and 101)	(869–032–00002–6)	20.00	[1] Jan. 1, 1997
●**4**	(869–032–00003–4)	7.00	Jan. 1, 1997
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●1–699	(869–032–00004–2)	34.00	Jan. 1, 1997
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●1200–End, 6 (6 Reserved)	(869–032–00006–9)	33.00	Jan. 1, 1997
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10 Parts:			
*●0–50	(869–032–00025–5)	39.00	Jan. 1, 1997
●51–199	(869–032–00026–3)	31.00	Jan. 1, 1997
*●200–499	(869–032–00027–1)	30.00	Jan. 1, 1997
*500–End	(869–032–00028–0)	42.00	Jan. 1, 1997
●**11**	(869–032–00029–8)	20.00	Jan. 1, 1997
12 Parts:			
●1–199	(869–032–00030–1)	16.00	Jan. 1, 1997
●200–219	(869–032–00031–0)	20.00	Jan. 1, 1997
●220–299	(869–032–00032–8)	34.00	Jan. 1, 1997
●300–499	(869–032–00033–6)	27.00	Jan. 1, 1997
●500–599	(869–032–00034–4)	24.00	Jan. 1, 1997
●600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
●**13**	(869–032–00036–1)	23.00	Jan. 1, 1997
14 Parts:			
*1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
●60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
140–199	(869–032–00039–5)	16.00	Jan. 1, 1997
200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
●1200–End	(869–032–00041–7)	21.00	Jan. 1, 1997
15 Parts:			
0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
●800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
*0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
●1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
1–199	(869–028–00052–5)	21.00	Apr. 1, 1996
200–239	(869–028–00053–3)	25.00	Apr. 1, 1996
240–End	(869–028–00054–1)	31.00	Apr. 1, 1996
18 Parts:			
1–149	(869–028–00055–0)	17.00	Apr. 1, 1996
150–279	(869–028–00056–8)	12.00	Apr. 1, 1996
280–399	(869–028–00057–6)	13.00	Apr. 1, 1996
400–End	(869–028–00058–4)	11.00	Apr. 1, 1996
19 Parts:			
*1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
141–199	(869–028–00060–6)	23.00	Apr. 1, 1996
200–End	(869–028–00061–4)	12.00	Apr. 1, 1996
20 Parts:			
1–399	(869–028–00062–2)	20.00	Apr. 1, 1996
●400–499	(869–028–00063–1)	35.00	Apr. 1, 1996
500–End	(869–028–00064–9)	32.00	Apr. 1, 1996
21 Parts:			
●1–99	(869–028–00065–7)	16.00	Apr. 1, 1996
●100–169	(869–028–00066–5)	22.00	Apr. 1, 1996
●170–199	(869–028–00067–3)	29.00	Apr. 1, 1996
●200–299	(869–028–00068–1)	7.00	Apr. 1, 1996
●300–499	(869–028–00069–0)	50.00	Apr. 1, 1996
●500–599	(869–028–00070–3)	28.00	Apr. 1, 1996
●600–799	(869–028–00071–1)	8.50	Apr. 1, 1996
●800–1299	(869–028–00072–0)	30.00	Apr. 1, 1996
●1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
22 Parts:			
1–299	(869–028–00074–6)	36.00	Apr. 1, 1996
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
500–699	(869–028–00080–1)	14.00	May 1, 1996
700–899	(869–028–00081–9)	13.00	May 1, 1996
900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
25	(869–028–00084–3)	32.00	May 1, 1996
26 Parts:			
§§ 1.0-1–1.60	(869–028–00085–1)	21.00	Apr. 1, 1996
§§ 1.61–1.169	(869–028–00086–0)	34.00	Apr. 1, 1996
§§ 1.170–1.300	(869–028–00087–8)	24.00	Apr. 1, 1996
§§ 1.301–1.400	(869–028–00088–6)	17.00	Apr. 1, 1996
§§ 1.401–1.440	(869–028–00089–4)	31.00	Apr. 1, 1996
§§ 1.441–1.500	(869-028-00090-8)	22.00	Apr. 1, 1996
§§ 1.501–1.640	(869–028–00091–6)	21.00	Apr. 1, 1996
§§ 1.641–1.850	(869–028–00092–4)	25.00	Apr. 1, 1996
§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996
2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996

Title	Stock Number	Price	Revision Date
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996
*500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
600–End	(869–028–00103–3)	8.00	Apr. 1, 1996
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
43-end	(869-028-00107-6)	30.00	July 1, 1996
29 Parts:			
0–99	(869–028–00108–4)	26.00	July 1, 1996
100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–028–00110–6)	48.00	July 1, 1996
900–1899	(869–028–00111–4)	20.00	July 1, 1996
1900–1910 (§§ 1900 to 1910.999)	(869–028–00112–2)	43.00	July 1, 1996
1910 (§§ 1910.1000 to end)	(869–028–00113–1)	27.00	July 1, 1996
1911–1925	(869–028–00114–9)	19.00	July 1, 1996
1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–028–00116–5)	38.00	July 1, 1996
30 Parts:			
1–199	(869–028–00117–3)	33.00	July 1, 1996
200–699	(869–028–00118–1)	26.00	July 1, 1996
700–End	(869–028–00119–0)	38.00	July 1, 1996
31 Parts:			
0–199	(869–028–00120–3)	20.00	July 1, 1996
200–End	(869–028–00121–1)	33.00	July 1, 1996
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
400–629	(869–028–00124–6)	34.00	July 1, 1996
630–699	(869–028–00125–4)	14.00	[5] July 1, 1991
700–799	(869–028–00126–2)	28.00	July 1, 1996
800–End	(869–028–00127–1)	28.00	July 1, 1996
33 Parts:			
1–124	(869–028–00128–9)	26.00	July 1, 1996
125–199	(869–028–00129–7)	35.00	July 1, 1996
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
300–399	(869–028–00132–7)	27.00	July 1, 1996
400–End	(869–028–00133–5)	46.00	July 1, 1996
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–028–00137–8)	24.00	July 1, 1996
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
18–End	(869–028–00139–4)	38.00	July 1, 1996
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869-028-00144-1)	47.00	July 1, 1996
●61–71	(869–028–00145–9)	47.00	July 1, 1996
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–028–00148–3)	46.00	July 1, 1996
●87-135	(869–028–00149–1)	35.00	July 1, 1996
●136–149	(869–028–00150–5)	35.00	July 1, 1996
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–028–00155–6)	33.00	July 1, 1996
●425–699	(869–028–00156–4)	38.00	July 1, 1996
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●**44**	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–032–00047–6)	45.00	Jan. 1, 1997
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Subscription (mailed as issued)		247.00	1997
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Complete set (one-time mailing)		264.00	1995

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.